

**ENFORCEMENT OF CARBON MONOXIDE
DETECTOR REQUIREMENTS**

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin S. Garn

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

This bill enacts provisions relating to the enforcement of carbon monoxide detector requirements.

Highlighted Provisions:

This bill:

- ▶ prohibits counties and municipalities from enforcing ordinances, rules, or regulations requiring the installation or maintenance of carbon monoxide detectors in residential dwellings against anyone other than the occupant of the dwelling, subject to an exception for new construction; and
- ▶ clarifies that local health department authority does not include the authority to enforce ordinances, rules, or regulations requiring the installation or maintenance of carbon monoxide detectors in residential dwellings against anyone other than the occupant of the dwelling.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26A-1-114, as last amended by Laws of Utah 2008, Chapter 339

ENACTS:

30 10-8-53.5, Utah Code Annotated 1953

31 17-50-327, Utah Code Annotated 1953

32

33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section 10-8-53.5 is enacted to read:

35 **10-8-53.5. Regulation of carbon monoxide detectors -- Enforcement against**
36 **occupant only.**

37 (1) Subject to Subsection (2), a municipality may not enforce an ordinance, rule, or
38 regulation requiring the installation or maintenance of a carbon monoxide detector in a
39 residential dwelling against anyone other than the occupant of the dwelling.

40 (2) Subsection (1) may not be construed to affect:

41 (a) a building permit applicant's obligation to comply with a building code that
42 requires the installation of a carbon monoxide detector as part of new construction; or

43 (b) a municipality's ability to require a building permit applicant to comply with a
44 building code that requires the installation of a carbon monoxide detector as part of new
45 construction.

46 Section 2. Section 17-50-327 is enacted to read:

47 **17-50-327. Regulation of carbon monoxide detectors -- Enforcement against**
48 **occupant only.**

49 (1) Subject to Subsection (2), a county may not enforce an ordinance, rule, or
50 regulation requiring the installation or maintenance of a carbon monoxide detector in a
51 residential dwelling against anyone other than the occupant of the dwelling.

52 (2) Subsection (1) may not be construed to affect:

53 (a) a building permit applicant's obligation to comply with a building code that
54 requires the installation of a carbon monoxide detector as part of new construction; or

55 (b) a county's ability to require a building permit applicant to comply with a building
56 code that requires the installation of a carbon monoxide detector as part of new construction.

57 Section 3. Section 26A-1-114 is amended to read:

58 **26A-1-114. Powers and duties of departments.**

59 (1) A local health department may:

60 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local
61 ordinances, department rules, and local health department standards and regulations relating to
62 public health and sanitation, including the plumbing code adopted by the Division of
63 Occupational and Professional Licensing under Section 58-56-4 and under Title 26, Chapter
64 15a, Food Safety Manager Certification Act, in all incorporated and unincorporated areas
65 served by the local health department;

66 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical
67 control over property and over individuals as the local health department finds necessary for
68 the protection of the public health;

69 (c) establish and maintain medical, environmental, occupational, and other laboratory
70 services considered necessary or proper for the protection of the public health;

71 (d) establish and operate reasonable health programs or measures not in conflict with
72 state law which:

73 (i) are necessary or desirable for the promotion or protection of the public health and
74 the control of disease; or

75 (ii) may be necessary to ameliorate the major risk factors associated with the major
76 causes of injury, sickness, death, and disability in the state;

77 (e) close theaters, schools, and other public places and prohibit gatherings of people
78 when necessary to protect the public health;

79 (f) abate nuisances or eliminate sources of filth and infectious and communicable
80 diseases affecting the public health and bill the owner or other person in charge of the
81 premises upon which this nuisance occurs for the cost of abatement;

82 (g) make necessary sanitary and health investigations and inspections on its own
83 initiative or in cooperation with the Department of Health or Environmental Quality, or both,
84 as to any matters affecting the public health;

85 (h) pursuant to county ordinance or interlocal agreement:

86 (i) establish and collect appropriate fees for the performance of services and operation
87 of authorized or required programs and duties;

88 (ii) accept, use, and administer all federal, state, or private donations or grants of
89 funds, property, services, or materials for public health purposes; and

90 (iii) make agreements not in conflict with state law which are conditional to receiving
91 a donation or grant;

92 (i) prepare, publish, and disseminate information necessary to inform and advise the
93 public concerning:

94 (i) the health and wellness of the population, specific hazards, and risk factors that
95 may adversely affect the health and wellness of the population; and

96 (ii) specific activities individuals and institutions can engage in to promote and protect
97 the health and wellness of the population;

98 (j) investigate the causes of morbidity and mortality;

99 (k) issue notices and orders necessary to carry out this part;

100 (l) conduct studies to identify injury problems, establish injury control systems,
101 develop standards for the correction and prevention of future occurrences, and provide public
102 information and instruction to special high risk groups;

103 (m) cooperate with boards created under Section 19-1-106 to enforce laws and rules
104 within the jurisdiction of the boards;

105 (n) cooperate with the state health department, the Department of Corrections, the
106 Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime
107 Victim Reparations Board to conduct testing for HIV infection of convicted sexual offenders
108 and any victims of a sexual offense;

109 (o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108;
110 and

111 (p) provide public health assistance in response to a national, state, or local
112 emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by
113 the President of the United States or other federal official requesting public health-related

114 activities.

115 (2) The local health department shall:

116 (a) establish programs or measures to promote and protect the health and general
117 wellness of the people within the boundaries of the local health department;

118 (b) investigate infectious and other diseases of public health importance and
119 implement measures to control the causes of epidemic and communicable diseases and other
120 conditions significantly affecting the public health which may include involuntary testing of
121 convicted sexual offenders for the HIV infection pursuant to Section 76-5-502 and voluntary
122 testing of victims of sexual offenses for HIV infection pursuant to Section 76-5-503;

123 (c) cooperate with the department in matters pertaining to the public health and in the
124 administration of state health laws; and

125 (d) coordinate implementation of environmental programs to maximize efficient use of
126 resources by developing with the Department of Environmental Quality a Comprehensive
127 Environmental Service Delivery Plan which:

128 (i) recognizes that the Department of Environmental Quality and local health
129 departments are the foundation for providing environmental health programs in the state;

130 (ii) delineates the responsibilities of the department and each local health department
131 for the efficient delivery of environmental programs using federal, state, and local authorities,
132 responsibilities, and resources;

133 (iii) provides for the delegation of authority and pass through of funding to local
134 health departments for environmental programs, to the extent allowed by applicable law,
135 identified in the plan, and requested by the local health department; and

136 (iv) is reviewed and updated annually.

137 (3) The local health department has the following duties regarding public and private
138 schools within its boundaries:

139 (a) enforce all ordinances, standards, and regulations pertaining to the public health of
140 persons attending public and private schools;

141 (b) exclude from school attendance any person, including teachers, who is suffering

142 from any communicable or infectious disease, whether acute or chronic, if the person is likely
143 to convey the disease to those in attendance; and

144 (c) (i) make regular inspections of the health-related condition of all school buildings
145 and premises;

146 (ii) report the inspections on forms furnished by the department to those responsible
147 for the condition and provide instructions for correction of any conditions that impair or
148 endanger the health or life of those attending the schools; and

149 (iii) provide a copy of the report to the department at the time the report is made.

150 (4) If those responsible for the health-related condition of the school buildings and
151 premises do not carry out any instructions for corrections provided in a report in Subsection
152 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the
153 persons responsible.

154 (5) The local health department may exercise incidental authority as necessary to carry
155 out the provisions and purposes of this part.

156 (6) Nothing in this part may be construed to authorize a local health department to
157 enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon
158 monoxide detector in a residential dwelling against anyone other than the occupant of the
159 dwelling.