

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1995**

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**SENATE BILL 295**

Judiciary I/Constitution Committee Substitute Adopted 4/25/95

Short Title: Smoke Detectors in Rental Property.

(Public)

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Sponsors:

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Referred to:

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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 materials, loads, and stresses; rules governing chimneys, heating appliances, elevators, and other facilities connected with the buildings and structures; rules governing plumbing, heating, air conditioning for the purpose of comfort cooling by the lowering of

1 temperature, and electrical systems; and such other reasonable rules pertaining to the  
2 construction of buildings and structures and the installation of particular facilities therein  
3 as may be found reasonably necessary for the protection of the occupants of the building  
4 or structure, its neighbors, and members of the public at large.

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

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

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

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

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

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

- 37 (1) Any rules governing boilers adopted by the Board of Boiler and  
38 Pressure Vessels Rules,
- 39 (2) Any rules relating to the safe operation of elevators adopted by the  
40 Commissioner of Labor, and
- 41 (3) Any rules relating to sanitation adopted by the Commission for Health  
42 Services or the Department of Environment, Health, and Natural  
43 Resources which the Building Code Council believes pertinent.

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

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

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

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

20 "(a) The landlord shall:

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

1           b. Reimburse the tenant for the reasonable costs of repair, or  
2           of a similar replacement, of a defective smoke detector, or  
3           the replacement of the smoke detector batteries, if the  
4           tenant chooses or agrees to make the repair or  
5           replacement, when the landlord is notified by the tenant  
6           that the tenant has repaired the detector or replaced the  
7           detector or batteries, and of the costs."

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

9           "(a) The tenant shall:

- 10           (1) Keep that part of the premises which he occupies and uses as clean and  
11           safe as the conditions of the premises permit and cause no unsafe or  
12           unsanitary conditions in the common areas and remainder of the  
13           premises which he uses;
- 14           (2) Dispose of all ashes, rubbish, garbage, and other waste in a clean and  
15           safe manner;
- 16           (3) Keep all plumbing fixtures in the dwelling unit or used by the tenant as  
17           clean as their condition permits;
- 18           (4) Not deliberately or negligently destroy, deface, damage, or remove any  
19           part of the ~~premises~~ premises, nor render inoperable the smoke detector  
20           provided by the landlord, or knowingly permit any person to do so;
- 21           (5) Comply with any and all obligations imposed upon the tenant by current  
22           applicable building and housing codes; ~~and~~
- 23           (6) Be responsible for all damage, defacement, or removal of any property  
24           inside a dwelling unit in his exclusive control unless said damage,  
25           defacement or removal was due to ordinary wear and tear, acts of the  
26           landlord or his agent, defective products supplied or repairs authorized  
27           by the landlord, acts of third parties not invitees of the tenant, or natural  
28           ~~fores-~~ forces; and
- 29           (7) Monitor the smoke detector provided by the landlord at least once every  
30           six months, and either:
- 31                   a. Notify the landlord of the need for any apparent or known  
32                   replacement of batteries or repairs to the smoke detector;  
33                   or
- 34                   b. Repair, or replace with a similar smoke detector, any  
35                   defective smoke detector, or replace the smoke detector  
36                   batteries, and request reimbursement from the landlord for  
37                   the reasonable costs of repair or replacement of the  
38                   defective smoke detector or the batteries."

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

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