

## **NYC Carbon Monoxide Bill Information**

On May 5, Mayor Bloomberg signed a bill (NYC Council Intro No. 4-A that will require CO alarms to be installed in all NYC buildings classified J-1, J-2, J-3 and in some cases G and H-2.

These building occupancy categories cover: Hotels, motels, rooming houses, apartment houses, and apartment hotels, school dormitories, 1 and 2-family homes, rectories, convents, group homes, hospitals, sanitariums, clinics, nursing homes, orphanages and day care centers.

The law will apply to structures where a fossil fuel furnace or boiler is located or buildings in close proximity to a source of CO.

The enforcement date is 180 days after the law is issued, which is November 2<sup>nd</sup>. 2004.

**REPORT OF THE INFRASTRUCTURE DIVISION  
MARCEL VAN OOYEN, DEPUTY CHIEF-OF-STAFF**

**COMMITTEE ON HOUSING AND BUILDINGS**

**Madeline Provenzano, Chair**

**April 19, 2004**

**INT. NO. 4-A:**

By: The Speaker (Council Member Miller) and Council Members Comrie, DeBlasio, Felder, Gennaro, Nelson, Quinn, Rivera, Serrano, Vann, Foster, Sears, Gentile, Gerson, Jackson, Martinez, Monserrate, Reed, Weprin, Liu, James, Lopez and Brewer.

**TITLE:**

In relation to requiring the installation of carbon monoxide detecting devices in buildings classified in occupancy groups G, H-2, J-1, J-2 and J-3.

**ADMINISTRATIVE CODE:**

Amends Title 27 by adding a new article 7 to subchapter 17 of chapter 1 and amends article 11 of subchapter 2 of chapter 2 by adding new sections 27-2046.1 and 27-2046.2.

**BACKGROUND AND INTENT:**

Today the Committee will conduct a second hearing on Proposed Int. No. 4-A, which would require the installation of carbon monoxide detecting devices in apartments, private homes, hotels, certain hospitals, schools “where a fossil fuel-burning furnace or boiler is located, and in certain buildings in close proximity to a source of carbon monoxide.” At the first hearing of the bill on March 29, 2004, the Committee heard testimony from representatives of the Department of Buildings, Fire Department, and others interested in building and fire safety.

Carbon monoxide, an odorless, colorless gas, results from the incomplete combustion of fossil fuels.<sup>1[1]</sup> The National Fire Protection Association states that “In the home, heating and cooking equipment that burn fuel are potential sources of carbon monoxide.”<sup>2[2]</sup> Faulty boilers, gas-burning heaters, and fuel-powered tools are among potential sources of carbon monoxide. Although its initial symptoms closely match those of the flu, carbon monoxide (CO) poisoning can be fatal. The Consumer Product Safety Commission reports that, from 1994 to 1998, the majority of non-fire carbon monoxide poisonings caused by consumer products were caused by heating systems.<sup>3[3]</sup> Early warning of a carbon monoxide leak is crucial, so that victims can move to fresh air before they lose consciousness. Carbon monoxide detecting devices are readily available to consumers, and several models are priced below thirty dollars.<sup>4[4]</sup> In the months of January and February 2004, four New York City residents were killed by carbon monoxide leaks in two buildings, one in Manhattan and one in the Bronx. Among other episodes last winter were the evacuation of 60 people and the hospitalization of 27 in an incident on University Avenue in the Bronx, and the evacuation of five homes in the Carroll Gardens section of Brooklyn.<sup>5[5]</sup>

Proposed Int. No. 4-A would require at least one carbon monoxide detecting devices within 15 feet of sleeping rooms in Class A multiple dwellings and private dwellings. Owners would be responsible for installing approved devices, while occupants would be required to keep and maintain the devices in good repair. Owners would be entitled to a reimbursement of twenty-five dollars per device from tenants. Placement of the devices in hospitals and schools will be determined by rule.

**Proposed Int. No. 4-A**

Section one of Proposed Int. No. 4-A adds a new Article 7 to Subchapter 17 of Chapter 1 of Title 27, entitled “Carbon Monoxide Detecting Devices.”

New section 27-981.1, in subdivision (a), defines “fossil fuel” as “coal, kerosene, oil, wood, fuel gases and other petroleum products.

In subdivision (b), it defines “fuel gases” to “include, but not be limited to, methane, natural gas, liquefied natural gas and manufactured fuel gases.”

New section 27-981.2 requires, in subdivision (a), that every dwelling unit in a building within occupancy groups J-1, J-2, or J-3 shall be equipped with an operational carbon monoxide detecting device approved in accordance with rules promulgated by the Commissioner of Buildings in consultation with the Fire Department and Department of Health and Mental Hygiene (DOHMH). This provision only applies to buildings “where a fossil fuel-burning furnace or boiler is located, and every dwelling unit in a building that is in close proximity to a source of carbon monoxide.” “Proximity” is to be established by the rules promulgated by the Commissioner of Buildings in consultation with the Fire Department and DOHMH. There must be at least one approved and operational device within 15 feet of each room lawfully used for sleeping purposes. The carbon monoxide detecting device may be combined with a smoke detecting device already required under the Administrative Code.

Subdivision (b) requires at least one approved and operational carbon monoxide detecting device to be installed in buildings classified in occupancy group G and H-2. Occupancy group G includes educational facilities and occupancy group H-2 includes hospitals and other institutions with incapacitated residents. The Commissioner of Buildings is to promulgate rules in consultation with the Fire Department and DOHMH.

Subdivision (c) specifies that the provisions of Article 7 apply retroactively, to all buildings that meet the provisions of subdivisions (a) and (b), irrespective of when they were constructed or when they were issued a certificate of occupancy.

Subdivision (d) states that the provisions of this Article may be enforced by the Department of Buildings, Fire Department, Department of Health and Mental Hygiene, and Department of Housing Preservation and Development.

New section 27-981.3 states that all carbon monoxide devices required to be provided and installed must be of a type authorized by rules promulgated by the Commissioner of Buildings.

Section two of Proposed Int. No. 4-A amends Article 11 of Subchapter 2 of Chapter 2 of Title 27 by adding two new sections to the Housing Maintenance Code. New section 27-2046.1 relates to the duties of the owner and occupant with respect to installation and maintenance of carbon monoxide detecting devices in private dwellings and in Class A multiple dwellings. New York City’s Housing Maintenance Code, at section §27-2004, defines a Class A multiple dwelling as one which is occupied “for permanent residence purposes” (such as apartments) while Class B multiple dwellings are used as the “more or less temporary abode of individuals or families who are lodged with or without meals” (such as single-room occupancy dwellings).

Subdivision (a) defines “private dwelling,” for the purposes of paragraphs two through six of subdivision (b), to mean a “dwelling unit in a one-family or two-family home which is occupied by a person or persons other than the owner of such unit or the owner’s family.”

Subdivision (b) enumerates the requirements for the owner of a Class A multiple dwelling and for a private dwelling that is required to be equipped with a carbon monoxide detecting device. Paragraph (1) requires owners to provide and install one or more approved and operational carbon monoxide detecting device in each dwelling unit. Paragraph (2) requires owners to post a notice, approved by the Commissioner of Housing Preservation and Development, in a common area of a Class A dwelling, or provide such notice to residents of a private dwelling, stating that the owner is required by law to install carbon monoxide detecting devices. Paragraph (3) requires owners to replace any carbon monoxide detecting device which has been stolen, removed, found missing, or rendered inoperable during prior occupancy and which has not been replaced by the prior occupant. Paragraph (4) requires owners to replace, within 30 days after the receipt of written notice, any device that becomes inoperable due to a manufacturing defect within one year of its installation and through no fault of the occupant. Paragraph (5) requires owners to provide written information regarding the testing and maintenance of carbon monoxide detecting devices to at least one adult occupant of each dwelling unit, including information about carbon monoxide poisoning and how to respond to an alarm. This information may include material

distributed by the manufacturer or material prepared by the Department of Buildings or material approved by the Department of Buildings. Paragraph (6) requires owners to keep records, as prescribed by the Commissioner of Housing Preservation and Development, relating to the installation and maintenance of devices in the building, and to make them available to the Commissioner upon request.

Subdivision (c) establishes the duty of an occupant of a dwelling unit in Class A multiple dwellings and the duty of an occupant of a dwelling unit in a private dwelling in which a carbon monoxide detecting device has been provided and installed by the owner. With the exception of the amount of reimbursement, these requirements closely parallel the requirements of occupants to maintain smoke detecting devices installed by owners. Paragraph (1) requires the occupant to keep and maintain the device in good repair. Paragraph (2) requires the occupant to replace any device which is stolen, removed, missing, or rendered inoperable during occupancy of the dwelling unit.

Subdivision (d) states, "Except as otherwise provided in paragraphs three and four of subdivision a of this section, an owner of a dwelling unit who has provided and installed a carbon monoxide detecting device in a dwelling unit pursuant to this section shall not be required to keep and maintain such device in good repair or to replace any such device which is stolen, removed, missing, or rendered inoperable during the occupancy of such dwelling unit."

Subdivision (e) states that it is unlawful for any person to tamper with a device, or render it inoperable, except for replacing batteries and for other maintenance purposes.

Subdivision (f) requires the occupant of a dwelling unit where the owner has installed a device pursuant to this section to reimburse the owner twenty-five dollars for the cost of providing and installing each device. The occupant is given one year from the date of installation to make the reimbursement. Additionally, if a device is installed by the owner as a result of the occupant's failure to maintain a device or the occupant has lost or damaged the device, the occupant must reimburse the owner.

Subdivision (g) states that the provisions of this section may be enforced by the Department of Housing Preservation and Development, Department of Buildings, Fire Department, and Department of Health and Mental Hygiene.

New section 27-2046.2 sets the duties of owner and occupant in Class B multiple dwellings. Subdivision (a) relates to requirements for the owner of a Class B multiple dwelling where carbon monoxide detecting devices must be installed. Paragraph (1) requires the owner to provide and install one or more approved and operational carbon monoxide detecting devices in each dwelling unit, or to provide and install a line-operated zone carbon monoxide detecting system. A line-operated zone system must have central annunciation and central office tie-in for public corridors and public spaces, pursuant to rules promulgated by the Commissioner of Housing Preservation and Development in consultation with the Department of Buildings and Fire Department. Paragraph (2) requires the owner to keep and maintain the devices in good repair. Paragraph (3) requires the owner, prior to commencement of a new occupancy of a dwelling unit, to replace any device which has been stolen, removed, found missing, or rendered inoperable. Paragraph (4) requires the owner to keep records, as prescribed by the Commissioner of Housing Preservation and Development, related to installation and maintenance of devices in the building, and to make them available to the Commissioner upon request.

Subdivision (b) declares it unlawful for any person to tamper with or render inoperable a carbon monoxide detecting device required by this legislation, except for replacing batteries and for other maintenance purposes.

Subdivision (c) states that the provisions of this section may be enforced by the Department of Housing Preservation and Development, Department of Buildings, Fire Department, and Department of Health and Mental Hygiene.

Bill section three of Proposed Int. No. 4-A contains the enactment clause. The local law will take effect on the 180<sup>th</sup> day after it is enacted, except that no later than 45 days prior to that date, the Commissioner of Buildings and the Commissioner of Housing Preservation and Development, in consultation with the Commissioner of Health and Mental Hygiene and the Fire Commissioner, shall take all actions necessary for implementation, including the promulgation of rules.

## *Amendments to Int. No. 4*

### Bill Section 1

In new section 27-981.1, the definition of “appliance” was deleted. The definition of “fossil fuel” was changed to mean “coal, kerosene, oil, wood, fuel gases and other petroleum products.”

In new section 27-981.2, in subdivision (a), the words “On and after October 1, 2004” were removed to reflect the revised effective date as presently described in bill section 3. In Int. No. 4, carbon monoxide detecting devices were required in all dwelling units within occupancy groups J-1, J-2, and J-3 and exemptions were contained in section 27-981.3 of the bill, pertaining to buildings that do not rely on the combustion of fossil fuel and are not in close proximity to a source of carbon monoxide. Now, under Proposed Int. No. 4-A, carbon monoxide detecting devices are required in dwelling units within occupancy groups J-1, J-2, or J-3 only where a fossil fuel-burning furnace or boiler is located, and every dwelling unit in a building that is in close proximity to a source of carbon monoxide. Proximity is to be established by rules. Carbon monoxide detecting devices are to be approved in accordance with the rules promulgated by the Commissioner of Buildings in consultation with the Fire Department and DOHMH. Int. No. 4 required at least one device within ten feet of each room lawfully used for sleeping purposes, while Proposed Int. No. 4-A now requires at least one device within fifteen feet of each room lawfully used for sleeping purposes and adds the specification that the carbon monoxide detecting device may be combined with a smoke detecting device.

In subdivision (b), which relates to hospitals and schools, the words “On and after October 1, 2004” have been removed. Int. No. 4 required one device for every 10,000 square feet of space, while Proposed Int. No. 4-A requires at least one device per building to be installed in accordance with the rules of the Department of Buildings. Proposed Int. No. 4-A also adds a subdivision (c) to specify that the provisions of the article apply retroactively, and a subdivision (d) that gives enforcement authority to DOB, the Fire Department, DOHMH, and HPD.

I□

### Bill Section 2

In Int. No. 4, bill section 2 adds new section 27-2046.1, relating to all multiple dwellings. In Proposed Int. No. 4-A, bill section 2 adds two new sections, 27-2046.1, relating to Class A multiple dwellings and private dwellings, and 27-2046.2, relating to Class B multiple dwellings. (See above for explanation of the differences.) A provision has been added which requires the occupant to reimburse the owner up to 25 dollars for each device. The occupant of a Class B multiple dwelling does not have that obligation.

### Bill Section 3

In Int. No. 4, the law takes effect immediately. In Proposed Int. No. 4-A, the law takes effect on the 180<sup>th</sup> day after enactment, except that no later than 45 days prior to that date, the Commissioner of Buildings and the Commissioner of Housing Preservation and Development, in consultation with the Commissioner of Health and Mental Hygiene and the Fire Commissioner, shall take all actions necessary for its implementation, including the promulgation of rules.

## *Additional Amendments to Int. No. 4, after March 29 hearing*

### Bill Section 2

Subdivision a of section 27-2046.1 has been changed so that the definition of “private dwelling” refers to paragraphs two through six, instead of two and five, as listed in earlier versions of the bill.

Subdivision f of section 27-2046.1, which requires occupants to reimburse owners twenty-five dollars for the cost of a device, has been amended to require occupants to reimburse owners when “a carbon monoxide detecting device is installed by the owner as a result of such occupant’s failure to maintain such device or where such device has been lost or damaged by such occupant.”

#### Update

On Monday, April 19, 2004, the Committee adopted this legislation by a vote of eleven in the affirmative, zero in the negative and no abstentions.

Accordingly, the Committee recommends its adoption.

#### **(Footnotes)**

<sup>1[1]</sup> Kimberly L. Ault, *Non-Fire Carbon Monoxide Deaths and Injuries Associated with the Use of Consumer Products: Annual Estimates*. U.S. Consumer Product Safety Commission, June 1999, p. 2.

<sup>2[2]</sup> <http://www.nfpa.org/Research/NFPAFactSheets/CO/co.asp>

<sup>3[3]</sup> Ault, p. 15.

<sup>4[4]</sup> [www.homedepot.com](http://www.homedepot.com)

<sup>5[5]</sup> Erin Walsh, Ralph R. Ortega and Alison Gendar, “Gas Leaks Leave City Under Dark Cloud,” *New York Daily News*, February 17, 2004.