

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6499

BILL NUMBER: SB 174

NOTE PREPARED: Feb 22, 2007

BILL AMENDED: Feb 22, 2007

SUBJECT: Smoke Detectors.

FIRST AUTHOR: Sen. Jackman

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill makes it a Class B infraction if a landlord fails to properly install a smoke detector at the time a tenant moves in, or fails to repair an inoperative smoke detector within seven days of receiving notice by certified mail that the smoke detector requires repair. It increases the penalty to a Class A infraction for a repeat violator, and makes the offense a Class D felony if a fire occurs on the rental premises causing bodily injury or loss of life and the fire, injury, or loss of life could have been avoided by an operable smoke detector.

It also makes it a Class D felony for a tenant to knowingly or intentionally fail to replace smoke detector batteries or report a defective or inoperable smoke detector to the landlord if a fire occurs on the rental premises causing bodily injury or loss of life and the fire, injury, or loss of life could have been avoided by an operable smoke detector.

The bill permits a fire department to inspect a private dwelling upon the request of the owner or primary lessee who resides in the dwelling. It makes other changes.

Effective Date: July 1, 2007.

Explanation of State Expenditures: (Revised) *Class D Felony:* There are no data available to indicate how many landlords would be convicted of failing to install or maintain a smoke detector and a fire occurs causing bodily injury or loss of life. Also, there are no data available to indicate how many tenants would be convicted of knowingly or intentionally failing to replace batteries in or report a defective or inoperable smoke detector. Both of these offenses would be punishable by a Class D felony.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$22,734 in FY 2006. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: (Revised) *Infractions:* Under current law, any dwelling owner, manager, or rental agent who fails to place and maintain functional smoke detectors as required by IC 22-11-18-3.5 is subject to a Class D infraction. Under the bill, the penalty would increase to a Class B infraction or a Class A infraction for repeat offenders.

Revenue to the state General Fund could increase if an infraction is changed from Class D to Class B or Class A. The maximum judgment for a Class D infraction is \$25, while the maximum judgment for a Class B infraction is \$1,000, and the maximum penalty for a Class A infraction is \$10,000. Proceeds from infraction judgments are deposited in the state General Fund. No additional revenue would be expected since the court fees are \$70 for both infraction types.

Class D Felony: If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the judicial salaries fee (\$15), the public defense administration fee (\$3), the court administration fee (\$2), the judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Class D Felony:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Class D Felony:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

Infractions: No additional revenue would be expected since the court fees are \$70 for both infraction types.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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