



January 21, 2011

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## SENATE BILL No. 211

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DIGEST OF SB 211 (Updated January 19, 2011 4:19 pm - DI dj)

**Citations Affected:** IC 12-17.2; IC 16-28; IC 16-41; IC 22-11; IC 22-12; IC 22-13; IC 32-31; IC 36-8.

**Synopsis:** Carbon monoxide detectors. Requires the installation of carbon monoxide detectors in residential homes, hotels, and motels. Adds "hydrocarbon gases" to fire safety laws definitions.

**Effective:** July 1, 2011.

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**Taylor**

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January 5, 2011, read first time and referred to Committee on Rules and Legislative Procedure.  
January 20, 2011, amended; reassigned to Committee on Public Policy.

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SB 211—LS 6966/DI 13+



January 21, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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## SENATE BILL No. 211



A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 12-17.2-3.5-5 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. A provider shall  
3 have:

- 4 (1) working smoke detectors that meet the standards adopted by
- 5 rule for smoke detectors in licensed child care homes; ~~and~~
- 6 **(2) a carbon monoxide detection system that complies with**
- 7 **IC 22-11-18.5; and**
- 8 ~~(2)~~ **(3) hot and cold running water;**
- 9 in the area of the facility where the provider operates a child care
- 10 program.

11 SECTION 2. IC 12-17.2-5-6.5, AS AMENDED BY P.L.145-2006,  
12 SECTION 101, IS AMENDED TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2011]: Sec. 6.5. (a) To qualify for a license to  
14 operate a class II child care home under this chapter, a person must do  
15 the following:

- 16 (1) Provide all child care services on the first story of the child
- 17 care home unless the class II child care home meets the

SB 211—LS 6966/DI 13+



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exceptions to the first story requirements contained in the Indiana building code adopted by the fire prevention and building safety commission in effect at the time the class II child care home provider applies for licensure.

(2) Provide a smoke detection system that is:

- (A) hard wired to the building's electrical system; and
- (B) wired in a manner that activates all of the detector devices in the building when one (1) detector device is activated.

**(3) Provide a carbon monoxide detection system that complies with IC 22-11-18.5.**

~~(3)~~ (4) Provide a fire extinguisher in each room that is used to provide child care services.

~~(4)~~ (5) Meet:

- (A) the exit requirements for an E-3 building occupancy classification under the Indiana building code adopted by the fire prevention and building safety commission, except for any illumination requirements, in effect at the time the class II child care home provider initially applies for licensure; and
- (B) the illumination requirements established in section 6.3(b)(2)(D) of this chapter.

~~(5)~~ (6) Provide a minimum of thirty-five (35) square feet for each child.

~~(6)~~ (7) Conduct fire drills required under article 37 of the Indiana fire prevention code adopted by the fire prevention and building safety commission in effect at the time the class II child care home provider applies for licensure.

~~(7)~~ (8) Apply for a license before July 1, 1996, or after June 30, 2001.

~~(8)~~ (9) Comply with rules adopted by the division of family resources for class II child care homes.

~~(9)~~ (10) Complete the training course taught or approved by the division concerning safe sleeping practices for a child within the person's care as described in IC 12-17.2-2-1(10).

(b) To qualify for a license to operate a class II child care home under this chapter, a person, before applying for the license, must have:

- (1) a class I child care home license; or
- (2) at least one (1) year of experience as a caregiver in a child care home or child care center.

SECTION 3. IC 12-17.2-6-5, AS AMENDED BY P.L.1-2006, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) As used in this section, "primary use of the building" means the occupancy classification that

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1 is:

- 2 (1) most closely related to the intended use of the building; and
- 3 (2) determined by the rules of the fire prevention and building
- 4 safety commission in effect at the time that the child care ministry
- 5 is first registered.

6 (b) The state fire marshal shall inspect a child care ministry  
7 registered under section 2 of this chapter to ensure that the child care  
8 ministry complies with the requirements of subsection (c).

9 (c) Except as provided in the following, a registered child care  
10 ministry shall comply with all rules of the fire prevention and building  
11 safety commission applicable to the primary use of the building:

12 (1) A registered child care ministry with an occupant load of at  
13 least fifty (50) shall do either of the following:

14 (A) Install and maintain a fire alarm system in compliance  
15 with the rules of the fire prevention and building safety  
16 commission **and install and maintain a carbon monoxide**  
17 **detection system that complies with IC 22-11-18.5.**

18 (B) Provide a notice on a form prescribed by the division of  
19 fire and building safety to the parents of each child who  
20 attends the ministry stating that the ministry does not have the  
21 same level of fire safety protection as a licensed child care  
22 center.

23 (2) Each registered child care ministry with an occupant load of  
24 less than fifty (50) shall do either of the following:

25 (A) Install and maintain in good operating condition at least  
26 one (1) battery operated smoke detector in each room and  
27 corridor used by the ministry **and install and maintain a**  
28 **carbon monoxide detection system that complies with**  
29 **IC 22-11-18.5.**

30 (B) Provide a notice on a form prescribed by the division of  
31 fire and building safety to the parents of each child who  
32 attends the ministry stating that the ministry does not have the  
33 same level of fire safety protection as a licensed child care  
34 center.

35 (3) Each registered child care ministry shall comply with the rules  
36 of the fire prevention and building safety commission concerning  
37 fire drills.

38 For purposes of this subsection, occupant load is determined by  
39 dividing the total square footage of the area used by the child care  
40 ministry by thirty-five (35) and rounding any result that is not a whole  
41 number up to the next whole number.

42 (d) The state fire marshal shall make an inspection of a child care

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1 ministry registered under section 2 of this chapter at least annually.

2 (e) During an inspection, the state fire marshal shall inspect the

3 structure in which the child care ministry is conducted for fire safety

4 and life safety with respect to the structure's primary use.

5 SECTION 4. IC 16-28-11-5, AS ADDED BY P.L.73-2007,

6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

7 JULY 1, 2011]: Sec. 5. (a) This section does not apply to the Indiana

8 Veterans' Home.

9 (b) A health facility licensed under IC 16-28 as a comprehensive

10 care facility must do the following:

11 (1) Have an automatic fire sprinkler system installed throughout

12 the facility before July 1, 2012.

13 (2) If an automatic fire sprinkler system is not installed

14 throughout the health facility before July 1, 2010, submit before

15 July 1, 2010, a plan to the state department for completing the

16 installation of the automatic fire sprinkler system before July 1,

17 2012.

18 (3) Have a battery operated or hard wired smoke detector in each

19 resident's room before July 1, 2012.

20 **(4) Install and maintain a carbon monoxide detection system**

21 **that complies with IC 22-11-18.5.**

22 (c) The state department shall adopt rules under IC 4-22-2 to

23 implement this section.

24 SECTION 5. IC 16-28-11-7, AS ADDED BY P.L.73-2007,

25 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

26 JULY 1, 2011]: Sec. 7. The state department shall disclose the

27 following information in the state department's consumer guide to

28 nursing homes:

29 (1) Until July 1, 2012, whether each health facility has:

30 (A) a battery operated;

31 (B) a hard wired; or

32 (C) no;

33 smoke detector **and a carbon monoxide detector** in each

34 resident's room.

35 (2) After June 30, 2012, whether a health facility has:

36 (A) a battery operated; or

37 (B) a hard wired;

38 smoke detector **and a carbon monoxide detector** in each

39 resident's room.

40 (3) If a health facility has a **carbon monoxide detector and a**

41 **hard wired or wireless smoke detector** in each resident's room,

42 whether the **carbon monoxide detector and** smoke detector:

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- 1 (A) ~~provides~~ **provide** a visual and audible signal at the nurses'
- 2 stations that attend each room;
- 3 (B) ~~transmits~~ **transmit** to a central station service; and
- 4 (C) ~~connects~~ **connect** to the health facility's fire alarm system.

5 SECTION 6. IC 16-41-27-16.6, AS ADDED BY P.L.31-2007,  
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2011]: Sec. 16.6. (a) Each year during National Fire  
 8 Prevention Week, the operator of a mobile home community is  
 9 encouraged to provide a written reminder to the owners of all  
 10 manufactured homes in the mobile home community to replace the  
 11 batteries in all weather radios, ~~and~~ smoke detectors, **and carbon**  
 12 **monoxide detectors** contained in their manufactured homes.

13 (b) Any reminder, assistance, or instructions provided by a  
 14 operator of a mobile home community concerning the function of a  
 15 weather radio or smoke detector contained in a manufactured home  
 16 shall not subject the operator or an owner or employee of the mobile  
 17 home community to liability for the functionality of that weather radio,  
 18 ~~or~~ smoke detector, **or carbon monoxide detector**.

19 SECTION 7. IC 22-11-18.5 IS ADDED TO THE INDIANA CODE  
 20 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2011]:

22 **Chapter 18.5. Carbon Monoxide Detection Devices**

23 **Sec. 1. As used in this chapter, "carbon monoxide detector"**  
 24 **means a device that:**

- 25 (1) **detects carbon monoxide and, if combined with a smoke**
- 26 **detector, identifies the carbon monoxide hazard with a**
- 27 **distinct sound; and**
- 28 (2) **is listed by a nationally recognized, independent, nonprofit**
- 29 **product safety testing certification laboratory as conforming**
- 30 **to the most current Underwriters Laboratories Standards or**
- 31 **its equivalent.**

32 **Sec. 2. As used in this chapter, "commission" has the meaning**  
 33 **set forth in IC 22-12-1-6.**

34 **Sec. 3. As used in this chapter, "dwelling" means an area for**  
 35 **living or sleeping by individuals. The term includes hotels and**  
 36 **motels (as defined in IC 22-11-18-1).**

37 **Sec. 4. As used in this chapter, "landlord" has the meaning set**  
 38 **forth in IC 32-31-3-3.**

39 **Sec. 5. As used in this chapter, "rental unit" has the meaning set**  
 40 **forth in IC 32-31-3-8.**

41 **Sec. 6. As used in this chapter, "tenant" has the meaning set**  
 42 **forth in IC 32-31-3-10.**

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1           **Sec. 7. (a) Beginning July 1, 2012, a dwelling must have at least**  
2 **one (1) carbon monoxide detector installed if the dwelling:**  
3           **(1) contains a source of, or equipment capable of producing,**  
4           **carbon monoxide; or**  
5           **(2) has an attached garage.**  
6           **(b) A carbon monoxide detector must be installed as follows:**  
7           **(1) According to the manufacturer's instructions.**  
8           **(2) Not more than ten (10) feet from each sleeping area and**  
9           **must be audible to the occupants of the sleeping area.**  
10           **(3) In accordance with the most current rules adopted by the**  
11           **commission.**  
12           **(c) If the dwelling has a centralized alarm system, a carbon**  
13 **monoxide detector may be installed not more than twenty-five (25)**  
14 **feet from a source of, or equipment capable of producing, carbon**  
15 **monoxide. The carbon monoxide detector must provide an audible**  
16 **signal to the person that monitors the centralized alarm system.**  
17           **Sec. 8. (a) A landlord shall:**  
18           **(1) provide and install a carbon monoxide detector in**  
19           **accordance with section 9 of this chapter;**  
20           **(2) ensure that all carbon monoxide detectors are functional**  
21           **at the time a new tenant occupies a dwelling; and**  
22           **(3) replace and repair a carbon monoxide detector within**  
23           **seven (7) working days after receiving written notice of a**  
24           **malfunctioning device.**  
25           **(b) A tenant shall:**  
26           **(1) replace batteries if needed and maintain all carbon**  
27           **monoxide detectors in good repair;**  
28           **(2) test every six (6) months all carbon monoxide detectors to**  
29           **ensure that they remain functional;**  
30           **(3) not obstruct, tamper with, or remove a carbon monoxide**  
31           **detector except for maintenance purposes; and**  
32           **(4) notify the landlord in writing of a malfunctioning carbon**  
33           **monoxide detector.**  
34           **Sec. 9. (a) Except as provided in subsections (b) and (c), a person**  
35 **who violates this chapter commits a Class D infraction.**  
36           **(b) A landlord who violates section 8(a) of this chapter commits**  
37 **a Class B infraction. The offense is a Class A infraction if the**  
38 **landlord has been found by a court to have committed a prior**  
39 **unrelated violation under this section.**  
40           **(c) An owner of a hotel or motel who violates this chapter**  
41 **commits a Class A infraction. The offense is a Class D felony if:**  
42           **(1) the owner knowingly or intentionally violates this chapter;**

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**and**  
**(2) bodily injury or loss of life occurs as a result of the violation.**

**(d) A violation of this chapter does not constitute grounds for a reduction or denial of a claim under an insurance policy even if the policy contains terms to the contrary.**

**Sec. 10. A rule or an ordinance is not voided or limited by this chapter if the rule or ordinance:**

- (1) applies to occupied dwellings; and**
- (2) is at least as stringent as the requirements of this chapter.**

SECTION 8. IC 22-12-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. "Fire safety law" means any building law, equipment law, or other law safeguarding life or property from the hazards of fire, ~~or~~ explosion, **or hydrocarbon gases.**

SECTION 9. IC 22-13-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The commission shall carry out a program to review the fire safety laws and the building laws adopted in the ordinances and other regulations of political subdivisions.

(b) An ordinance or other regulation adopted by a political subdivision that qualifies as a fire safety law or a building law is not effective until it is approved by the commission. However, an ordinance that:

- (1) is adopted by a city, town, or county; and
- (2) governs the installations, repair, and maintenance of smoke detectors **and carbon monoxide detectors** in residential structures that are not required to have smoke detectors **and carbon monoxide detectors** under the rules of the commission; is effective without approval by the commission.

SECTION 10. IC 22-13-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. The commission shall adopt fire safety rules that prohibit the occupancy or use of Class 1 structures that do not comply with the commission's rules governing the number, type, location, identification, repair, and maintenance of emergency exits, smoke detection devices, and other emergency communication devices.

SECTION 11. IC 32-31-5-7, AS ADDED BY P.L.17-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) At the time a landlord delivers a rental unit to a tenant, the landlord shall require the tenant to acknowledge in writing that the rental unit is equipped with a functional smoke detector

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1 **and carbon monoxide detector.**

2 (b) A landlord and a tenant may not waive, in a rental agreement or  
3 a separate writing, the requirements under IC 22-11-18-3.5 concerning  
4 smoke detectors **and carbon monoxide detectors.**

5 SECTION 12. IC 32-31-7-5, AS AMENDED BY P.L.17-2008,  
6 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2011]: Sec. 5. A tenant shall do the following:

8 (1) Comply with all obligations imposed primarily on a tenant by  
9 applicable provisions of health and housing codes.

10 (2) Keep the areas of the rental premises occupied or used by the  
11 tenant reasonably clean.

12 (3) Use the following in a reasonable manner:

13 (A) Electrical systems.

14 (B) Plumbing.

15 (C) Sanitary systems.

16 (D) Heating, ventilating, and air conditioning systems.

17 (E) Elevators, if provided.

18 (F) Facilities and appliances of the rental premises.

19 (4) Refrain from defacing, damaging, destroying, impairing, or  
20 removing any part of the rental premises.

21 (5) Comply with all reasonable rules and regulations in existence  
22 at the time a rental agreement is entered into. A tenant shall also  
23 comply with amended rules and regulations as provided in the  
24 rental agreement.

25 (6) Ensure that each smoke detector **and carbon monoxide**  
26 **detector** installed in the tenant's rental unit remains functional  
27 and is not disabled. If the smoke detector is battery operated, the  
28 tenant shall replace batteries in the smoke detector as necessary.  
29 If the smoke detector ~~is~~ **and carbon monoxide detector are** hard  
30 wired into the rental unit's electrical system, and the tenant  
31 believes that the smoke detector ~~is~~ **and carbon monoxide**  
32 **detector are** not functional, the tenant shall provide notice to the  
33 landlord under IC 22-11-18-3.5(e)(2).

34 This section may not be construed to limit a landlord's obligations  
35 under this chapter or IC 32-31-8.

36 SECTION 13. IC 36-8-17-3 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. As used in this  
38 chapter, "fire safety law" means any law, including rules and orders of  
39 the commission, safeguarding life or property from the hazards of fire,  
40 ~~or~~ explosion, **or hydrocarbon gases.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 211, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Public Policy.

(Reference is to SB 211 as introduced.)

LONG, Chairperson

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