

# Where is carbon monoxide included in Oregon Statutes?

## Chapter 90 – Residential Landlord and Tenant

### • **ORS 90.302 Fees allowed for certain landlord expenses; accounting not required.**

(2) A landlord may charge a tenant a fee for each occurrence of the following:

(c) Removal or tampering with a properly functioning smoke alarm, smoke detector or carbon monoxide alarm, as provided in ORS 90.325 (2).

### • **ORS 90.316 Carbon monoxide alarm.**

(1) As used in this section, “carbon monoxide alarm” and “carbon monoxide source” have the meanings given those terms in ORS 105.836.

(2) A landlord may not enter into a rental agreement creating a new tenancy in a dwelling unit that contains a carbon monoxide source or that is within a structure that contains a carbon monoxide source unless, at the time the tenant takes possession of the dwelling unit, the dwelling unit contains one or more properly functioning carbon monoxide alarms installed in compliance with State Fire Marshal rules and with any applicable requirements of the state building code. The landlord shall provide a new tenant with alarm testing instructions as described in ORS 90.317.

(3) If a carbon monoxide alarm is battery-operated or has a battery-operated backup system, the landlord shall supply working batteries for the alarm at the beginning of a new tenancy. [2009 c.591 §10]

**Note:** 90.316 becomes operative July 1, 2010, and applies to rental agreements that a landlord enters into on or after July 1, 2010. See sections 16 and 17, chapter 591, Oregon Laws 2009.

**Note:** See 105.844.

### • **ORS 90.317 Repair or replacement of carbon monoxide alarm.**

(1) If a rental dwelling unit that is subject to ORS chapter 90 has a carbon monoxide source or is located within a structure having a carbon monoxide source, the landlord shall ensure that the dwelling unit has one or more carbon monoxide alarms installed in compliance with State Fire Marshal rules and the state building code. The landlord shall provide the tenant of the dwelling unit with a written notice containing instructions for testing of the alarms. The landlord shall provide the written notice to the tenant no later than at the time that the tenant first takes possession of the premises.

(2) If the landlord receives written notice from the tenant of a deficiency in a carbon monoxide alarm, other than dead batteries, the landlord shall repair or replace the alarm. Supplying and maintaining a carbon monoxide alarm required under this section is a habitable condition requirement under ORS 90.320. [2009 c.591 §5]

**Note:** 90.317 becomes operative April 1, 2011. See section 16, chapter 591, Oregon Laws 2009.

**Note:** 90.317 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 90 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**Note:** See 105.844.

### • **ORS 90.320 Landlord to maintain premises in habitable condition; agreement with tenant to maintain premises.**

(1) A landlord shall at all times during the tenancy maintain the dwelling unit in a habitable condition.

For purposes of this section, a dwelling unit shall be considered uninhabitable if it substantially lacks:

(k) A carbon monoxide alarm, and the dwelling unit or the structure in which the dwelling unit is a part contains a carbon monoxide source as defined in ORS 105.836;

(3) Any provisions of this section that reasonably apply only to a structure that is used as a home, residence or sleeping place shall not apply to a manufactured dwelling, recreational vehicle or floating home where the tenant owns the manufactured dwelling, recreational vehicle or floating home, rents the space and, in the case of a dwelling or home, the space is not in a facility. Manufactured dwelling or floating home tenancies in which the tenant owns the dwelling or home and rents space in a facility shall be governed by ORS 90.730, not by this section. [Formerly 91.770; 1993 c.369 §6; 1995 c.559 §15; 1997 c.249 §32; 1997 c.577 §17; 1999 c.307 §20; 1999 c.676 §11; 2009 c.591 §12]

**Note:** The amendments to 90.320 by section 12, chapter 591, Oregon Laws 2009, become operative July 1, 2010, and apply to rental agreements that a landlord enters into on or after July 1, 2010. See sections 16 and 17, chapter 591, Oregon Laws 2009. The text that is operative until July 1, 2010, is set forth for the user's convenience.

#### TENANT OBLIGATIONS

• **ORS 90.325 Tenant duties.**

(1) The tenant shall: ...

(f) Test at least once every six months and replace batteries as needed in any smoke alarm, smoke detector or carbon monoxide alarm provided by the landlord and notify the landlord in writing of any operating deficiencies.

(2) A tenant may not:

(a) Remove or tamper with a smoke alarm, smoke detector or carbon monoxide alarm as described in ORS 105.842 or 479.300.

(b) Deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or knowingly permit any person to do so. [Formerly 91.775; 1993 c.369 §7; 1995 c.559 §16; 1999 c.307 §21; 1999 c.603 §20; 2009 c.591 §13]

## Chapter 105 - Property Rights

#### CARBON MONOXIDE ALARMS IN DWELLINGS

• **ORS 105.464 Form of seller's property disclosure statement.** A seller's property disclosure statement must be in substantially the following form:...

##### 5. DWELLING STRUCTURE...

D. Are there carbon monoxide alarms? [ ]Yes [ ]No [ ]Unknown

• **ORS 105.836 Definitions for ORS 90.317, 105.836 to 105.842 and 476.725.** As used in ORS 90.317, 105.836 to 105.842 and 476.725, unless the context requires otherwise:

(1) "Carbon monoxide alarm" means a device that:

(a) Detects carbon monoxide;

(b) Produces a distinctive audible alert when carbon monoxide is detected;

(c) Conforms to State Fire Marshal rules;

(d) Is listed by Underwriters Laboratories or any other nationally recognized testing laboratory or an equivalent organization; and

(e) Operates as a distinct unit or as two or more single station units wired to operate in conjunction with each other.

(2) "Carbon monoxide source" means:

- (a) A heater, fireplace, appliance or cooking source that uses coal, kerosene, petroleum products, wood or other fuels that emit carbon monoxide as a by-product of combustion; or
- (b) An attached garage with an opening that communicates directly with a living space.
- (3) “Multifamily housing” means a building in which three or more residential units each have space for eating, living and sleeping and permanent provisions for cooking and sanitation.
- (4) “One and two family dwelling” means a residential building that is regulated under the state building code as a one and two family dwelling. [2009 c.591 §1]

• **ORS 105.838 Carbon monoxide alarm in dwelling.**

- (1) A person may not convey fee title to a one and two family dwelling or multifamily housing that contains a carbon monoxide source, or transfer possession under a land sale contract of a one and two family dwelling or multifamily housing that contains a carbon monoxide source, unless one or more properly functioning carbon monoxide alarms are installed in the dwelling or housing at locations that provide carbon monoxide detection for all sleeping areas of the dwelling or housing.
- (2) A carbon monoxide alarm in a one and two family dwelling or multifamily housing described in subsection (1) of this section must be installed in conformance with applicable rules of the State Fire Marshal and in conformance with any applicable requirements of the state building code.
- (3) Violation of this section or a rule adopted by the State Fire Marshal does not invalidate any sale or transfer of possession of a one and two family dwelling or multifamily housing. [2009 c.591 §2]

**Note:** 105.838 becomes operative April 1, 2011, and applies to a conveyance of fee title that is recorded on or after April 1, 2011. See sections 16 (1) and 17 (1), chapter 591, Oregon Laws 2009.

• **ORS 105.840 Action by purchaser for failure of seller to install carbon monoxide alarm.** A purchaser or transferee of a one and two family dwelling or multifamily housing who is aggrieved by a violation of ORS 105.838 or of a rule adopted under ORS 476.725 may bring an individual action in an appropriate court to recover the greater of actual damages or \$250 per residential unit. In any action brought under this section, the court may award to a prevailing party, in addition to the relief provided in this section, reasonable attorney fees at trial and on appeal, and costs. Actions brought under this section must be commenced within one year after the date of sale or transfer. [2009 c.591 §3]

**Note:** 105.840 becomes operative April 1, 2011, and applies to a conveyance of fee title that is recorded on or after April 1, 2011. See sections 16 (1) and 17 (1), chapter 591, Oregon Laws 2009.

• **ORS 105.842 Tampering with carbon monoxide alarm.**

- (1) As used in this section, “tamper” includes, but is not limited to, the removal of working batteries.
- (2) Except as otherwise provided in this section, a person may not remove or tamper with a carbon monoxide alarm installed in a one and two family dwelling or multifamily housing. This section does not prohibit the removal of, or tampering with, a carbon monoxide alarm:
  - (a) For the purpose of replacing a defective alarm or conforming the installation of the alarm with State Fire Marshal rules;
  - (b) In a dwelling or housing that is being demolished or converted to nonresidential use; or
  - (c) For the period that the removal or tampering is necessary for an active process of remodeling or renovating the installation location. [2009 c.591 §6]

• **ORS 105.844 Short title.** ORS 90.316, 90.317, 105.836 to 105.842, 455.360 and 476.725 shall be known and may be cited as the Lofgren and Zander Memorial Act. [2009 c.591 §15]

## Chapter 476 – State Fire Marshal, Protection From Fire Generally

- ORS 476.725 **Statewide standards for residential carbon monoxide alarms; rules.**

(1) The State Fire Marshal shall adopt rules establishing minimum standards for carbon monoxide alarms in one and two family dwellings and multifamily housing. The rules adopted by the State Fire Marshal may include, but need not be limited to, rules establishing minimum standards for the design, inspection, testing and maintenance of carbon monoxide alarms.

(2) The State Fire Marshal shall adopt rules establishing standards for the placement and location of carbon monoxide alarms in one and two family dwellings and multifamily housing that were not subject to state building code requirements for carbon monoxide alarm placement or location at the time of construction.

(3) In adopting rules under this section, the State Fire Marshal shall give consideration to state building code requirements and any standards adopted by national safety organizations.

(4) Notwithstanding ORS 476.030, State Fire Marshal rules adopted under this section shall apply for all governmental subdivisions in the state. A governmental subdivision, as defined in ORS 476.005 may not enact or enforce any local ordinance, rule or regulation regarding the design, inspection, testing, maintenance, placement or location of carbon monoxide alarms. [2009 c.591 §4]

**Note:** 476.725 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 476 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.