



CHANGES TO MASSACHUSETTS SMOKE DETECTOR LAW: UNDERSTANDING THE STATE'S NEW REGULATIONS

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New technologies often beget new laws. So it is with the world of smoke detectors. Effective January 1, 2010, a new regulation relating to the installation and maintenance of certain smoke detectors takes effect. This article is intended to provide basic guidance to ensure that property owners, property managers, and real estate brokers understand and comply with the new Massachusetts law concerning smoke detectors.

SMOKE DETECTOR TECHNOLOGY

Currently, there are two primary detection methods used in modern smoke detectors: photoelectric and ionization. Ionization detectors typically have a constant current running between two electrodes. When smoke enters, it interrupts the current, setting off an alarm. Ionization detectors are often faster to alert than photoelectric detectors. However, ionization detectors are unable to differentiate between smoke and steam. As a result, they are prone to false alarms when steam from a shower or other source interrupts the current. This is especially true when the ionization detector is placed in close proximity to a kitchen or bathroom.

Photoelectric detectors emit a beam of light. In the absence of smoke, the beam passes in front of the detector in a straight line. When smoke crosses the path of the light beam, some light is scattered by the smoke particles, directing it at a sensor and triggering an alarm. Photoelectric detectors are less sensitive to false alarms from steam or cooking fumes but can take longer than ionization detectors to alert.

Since the introduction of detectors using the photoelectric technology, there has been an ongoing debate as to whether to require property owners to replace their ionization detectors with photoelectric detectors. On one hand, property owners have raised concerns about the cost of replacing smoke detectors which continue to be operable. On the other hand, the fire departments have suggested that the elimination of false alarms outweighs the additional costs. The new regulations were enacted to resolve this ongoing debate.

NEW REGULATIONS

In recognition of the relative strengths and weaknesses of photoelectric versus ionization smoke detectors, the Board of Fire Prevention Regulation has passed a new regulation (527 CMR 32.00 et seq). Under the new regulation, owners of certain residential buildings will be required to install and maintain both ionization and photoelectric smoke detectors. While the new regulation does not change the locations where smoke detectors are required, it does require the installation of both technologies in certain locations.

Under the new regulation, a smoke detector utilizing both technologies is required in all previously required locations, except within 20 feet of a kitchen or a bathroom containing a bathtub or shower. Compliance can be achieved by installing two separate detectors using these technologies, or by installing one detector which uses both technologies. Within 20 feet of a kitchen or bathroom containing a bathtub or shower, only a photoelectric smoke detector is allowed. An ionization detector is prohibited in these places due to their tendency to be set off by steam.

WHAT PROPERTIES ARE AFFECTED BY THE NEW REGULATION?

Determining whether a specific property is affected by the new regulation requires a case-by-case analysis and, therefore, property owners are encouraged to consult with legal counsel to determine the specific requirements for their property. That being said, the new regulations apply if: (a) the building is under 70 feet tall; AND (b) contains less than 6 residential units; AND (c) has not been substantially altered since January 1, 1975. If your building fits all three of these conditions, the new law likely applies to you. If your property does not fit all of these categories, then the new law does not apply to you since your property is already subject to the more strict state law. In other words, for buildings taller than 70 feet, larger than 6 apartments, or which have been substantially altered since January 1, 1975, your property was already subject to a higher standard in relation to fire safety equipment, and therefore these new regulations do not apply. Finally, for those properties which are affected by these new regulations, compliance is mandated by January 1, 2010.

CONCLUSION

This article is intended to provide members with basic information concerning this recent change to the Massachusetts smoke detector law. Residential property owners, managers, and real estate brokers should be cognizant that highly specific smoke detector requirements exist and apply to anyone owning or selling a residential property. While the new law may not impose these new requirements on a specific property, it is imperative that owners ensure that their properties comply with these laws, both from a public safety and liability viewpoint. To avoid problems and determine the precise requirements for your properties, members are encouraged to consult with legal counsel.