

Amanda's Law

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Early in 2009 Amanda Hansen, a 16 year old living in West Seneca, New York, spent the night at her friend's home. She slept in a bedroom which was in the basement. When she could not be roused the following morning she was taken to South Buffalo Mercy Hospital where she later passed away having been exposed to lethal levels of carbon monoxide.

Her parents, obviously broken hearted, lobbied intensively for legislation to require that every dwelling unit in the State of New York have a carbon monoxide detection system. In 2009, Governor David Patterson signed Amanda's Law into effect. Following the issuance of emergency rules by the State Fire Prevention & Building Code Council at its meeting on December 16, 2009, the new regulations were placed into effect as of February 22, 2010.

What Does Amanda's Law Require?

Amanda's Law requires that every dwelling unit in the State of New York, which has exposure to a carbon monoxide source, must have a carbon monoxide detection device installed. The law is applicable to all one or two family dwellings, apartments in multiple dwellings, and condominiums and cooperative apartments, if the dwelling unit has an attached garage or appliances, devices or systems that emit carbon monoxide.

Pre-2008 or Post-2008 Dwellings

The requirements for the installation of alarm systems differ for dwelling units constructed after January 1, 2008 and dwelling units constructed prior to that date. If the dwelling unit was constructed prior to 2008, a battery operated system is permissible. For such pre-2008 dwellings, an alarm must be installed in every "dwelling unit or sleeping unit on the lowest story having a sleeping area." Some municipalities also require that a homeowner upgrade his or her alarm and carbon monoxide system in the event the homeowner would like to commence renovations which would require a certificate of occupancy.

When more than one carbon monoxide alarm is required to be installed within an individual dwelling unit, the alarms must be interconnected so that the activation of one alarm will activate all alarms in the individual unit. The alarms must be clearly audible in all sleeping areas at levels which allow a person to hear the alarms with all intervening doors closed.

For dwelling units constructed after 2008, the requirements are more stringent. Existing fire alarm systems must be upgraded to include the carbon monoxide detection system. The sound emitted by alarm systems, which detect smoke and carbon monoxide, must have distinctively different alarm signals for smoke or carbon monoxide alarm activation.

What is a “Carbon Monoxide Source”?

Regulations set forth the definition of a “carbon monoxide source”. The definition includes:

“Fuel fired appliances, equipment, devices and systems; solid fuel burning appliances, equipment, devices and systems; all other appliances, equipment, devices and systems that may emit carbon monoxide; fireplaces; garages; and all other motor vehicle related occupancies.”

With this definition, virtually every home or dwelling unit must now have a carbon monoxide detection system.

Do Real Estate Licensees Have Affirmative Duties of Disclosure?

Confusion exists within the real estate licensee community as to whether or not licensees are required to advise clients and customers of the new law and its requirements. A review of the law and the related regulations indicates that no such affirmative obligations exist. Nevertheless, sellers will be required to have such alarms in their homes when properties are sold. In addition, sellers are required to execute appropriate affidavits as to the existence of an operable alarm on the premises, in order to complete their real estate closings. Licensees should, therefore, familiarize themselves with the provisions of the law and the regulations so that they can speak intelligently about them, to their clients and customers.

Other Aspects of the Regulations

The Regulations cover a broad range of details including what constitutes a dwelling unit, the power source required, limitations on locations for the placement of carbon monoxide alarms (for example, they cannot be near openings to garages, bathrooms or furnace rooms, etc.), the maintenance and disabling of such alarm systems, applicability to bed and breakfast facilities and interconnection requirements. The full text of the regulations can be accessed at www.dos.state.ny.us/code/COAlarm.htm

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