

BILL ANALYSIS

C.S.H.B. 1168
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The standard at the time Texas first required smoke alarms to be installed in residential rental properties was to place the alarms in the vicinity, but outside, of a bedroom. Since that time, standards in the international model codes used by cities have changed to require smoke alarms to be placed in bedrooms. Additionally, inspection requirements for single-use non-refillable residential fire extinguishers, or 1A10BC fire extinguishers, are unclear. While annual inspections are required for certain larger pressure-tested refillable fire extinguishers, some cities also require 1A10BC extinguishers to be inspected. Since such residential fire extinguishers can easily be visually inspected, it is unnecessary to require a 1A10BC fire extinguisher to be inspected by a third party.

C.S.H.B. 1168 seeks to update Texas law regarding the placement of smoke alarms in bedrooms of certain residential rental properties to be consistent with international model codes and also seeks to clarify inspection requirements for certain residential fire extinguishers.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1168 amends the Property Code to replace references to smoke detectors with references to smoke alarms in provisions relating to devices that are designed to detect and sound an alarm to indicate the presence of smoke and are installed in residential rental units. The bill requires a smoke alarm to meet the same design requirements as a smoke detector and authorizes a smoke alarm to be powered by battery, alternating current, or other power source as required by local ordinance, with certain exceptions, rather than requiring that such a device be powered by one of those sources. The bill removes, in the provision of law establishing the design requirements for a smoke alarm, the requirement for a smoke detector that the device be in good working order.

C.S.H.B. 1168 removes the specification that provisions of law relating to the installation and location of devices for smoke detection and alert apply only to new construction, including the requirement that such installation be done before the first tenant takes possession of a dwelling unit. The bill requires a landlord to install at least one smoke alarm in each separate bedroom in a dwelling unit, rather than in the vicinity of each separate bedroom, and specifies that if multiple bedrooms are served by the same corridor, at least one smoke alarm is required to be installed in the corridor in the immediate vicinity of the bedrooms. The bill amends provisions of law establishing the specific location of such devices if the dwelling unit has multiple levels.

C.S.H.B. 1168 authorizes a smoke alarm to be powered by a battery if the dwelling unit in which the smoke alarm is installed was occupied as a residence before September 1, 2011, or a certificate of occupancy was issued for the dwelling unit before that date. The bill specifies that

the smoke alarm in such a dwelling unit is not required to be interconnected with other smoke alarms. The bill requires a landlord, with respect to a dwelling unit first occupied or for which a certificate of occupancy was issued before September 1, 2011, to comply with the change in law made by the bill's provisions relating to the installation and location of smoke alarms on or before January 1, 2013.

C.S.H.B. 1168 increases from more than \$2,500 to more than \$5,000 the projected cost of the interior repair, remodeling, or rebuilding of a dwelling unit or an addition to such a unit, if the unit was built before September 1, 1987, and has a battery-powered smoke alarm properly installed, that exempts the unit from the prohibition against a local ordinance requiring that a smoke alarm powered by alternating current be installed in the unit and adds as conditions for the exemption of such a unit from that prohibition that either the repair, remodeling, or rebuilding results in the removal of interior walls or ceiling finishes exposing the structure or the interior of the unit provides access for building wiring through an attic, crawl space, or basement without the removal of interior walls or ceiling finishes. The bill authorizes a smoke alarm to be located other than in accordance with its manufacturer's recommended installation procedures if a local ordinance or a local or state fire marshal approves.

C.S.H.B. 1168 requires a landlord or the landlord's agent, if the landlord has installed a 1A10BC residential fire extinguisher as defined by the National Fire Protection Association or other non-rechargeable fire extinguisher in accordance with a local ordinance or other law, to inspect the fire extinguisher at the beginning of a tenant's possession and within a reasonable time after receiving a written request by a tenant. The bill requires a fire extinguisher inspection, at a minimum, to include checking to ensure the fire extinguisher is present and the fire extinguisher gauge or pressure indicator indicates the correct pressure as recommended by the manufacturer of the fire extinguisher. The bill provides that a fire extinguisher that satisfies the inspection requirements at the beginning of a tenant's possession is presumed to be in good working order until the tenant requests an inspection in writing. The bill requires the landlord to repair or replace a fire extinguisher at the landlord's expense if, on inspection, the fire extinguisher is found not to be functioning, not to have the correct pressure indicated on the gauge or pressure indicator as recommended by the manufacturer of the fire extinguisher, or if a tenant has notified the landlord that the tenant has used the fire extinguisher for a legitimate purpose. The bill specifies that, if the tenant or the tenant's invited guest removes, misuses, damages, or otherwise disables a fire extinguisher, the landlord is not required to repair or replace the fire extinguisher at the landlord's expense and the landlord is required to repair or replace the fire extinguisher within a reasonable time if the tenant pays in advance the reasonable repair or replacement cost.

C.S.H.B. 1168 defines "bedroom" and "smoke alarm" and makes conforming and nonsubstantive changes.

C.S.H.B. 1168 repeals Section 92.256, Property Code, relating to the installation of smoke detectors in dwelling units constructed or occupied on or before September 1, 1981.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1168 contains provisions not included in the original including either the condition that the repair, remodeling, or rebuilding results in the removal of interior walls or ceiling finishes exposing the structure or the condition that the interior of the unit provides access for building wiring through an attic, crawl space, or basement without the removal of interior walls or ceiling finishes among the conditions exempting the unit from the prohibition against a local ordinance requiring a unit built before September 1, 1987, that has a battery-powered smoke alarm properly installed to have a smoke alarm powered by alternating current installed in the unit.

C.S.H.B. 1168 differs from the original, in the provision relating to the placement of a smoke alarm if multiple bedrooms are served by the same corridor, by retaining a statutory provision requiring a landlord to install at least one smoke alarm in the corridor in the immediate vicinity of the bedrooms, whereas the original removes that statutory provision. The substitute omits a provision included in the original requiring that a landlord install at least one smoke alarm in the corridor between two of the bedrooms.

C.S.H.B. 1168 differs from the original by authorizing a smoke alarm to be powered by a battery if the dwelling unit in which the smoke alarm is installed was occupied as a residence before September 1, 2011, or a certificate of occupancy was issued for the dwelling unit before that date, whereas the original authorizes a smoke alarm in such a unit to be powered by a battery, alternating current, or other power source. The substitute omits a provision included in the original requiring a smoke alarm installed in such a unit to comply with any local ordinance in effect at the time the dwelling unit was first occupied or a certificate of occupancy was issued for the dwelling unit requiring the smoke alarm to be powered by alternating current or other power source.

C.S.H.B. 1168 contains a provision not included in the original requiring a fire extinguisher inspection, at a minimum, to include checking to ensure the fire extinguisher is present. The substitute contains a provision not included in the original specifying that the requirement in such an inspection to check to ensure the fire extinguisher gauge or pressure indicator indicates the correct pressure refers to the pressure as recommended by the manufacturer of the fire extinguisher. The substitute omits a provision contained in the original requiring that such an inspection include following any other routine inspection procedures recommended by the manufacturer of the fire extinguisher.

C.S.H.B. 1168 contains a provision not included in the original requiring the landlord to repair or replace a fire extinguisher at the landlord's expense if, on inspection, the fire extinguisher is found not to have the correct pressure indicated on the gauge or pressure indicator as recommended by the manufacturer of the fire extinguisher. The substitute differs from the original by specifying, in the requirement that the landlord repair or replace the fire extinguisher under certain circumstances if the tenant pays in advance the reasonable repair or replacement cost, that such repair or replacement be done within a reasonable time, whereas the original does not specify a deadline for the repair or replacement.