



NSW Legislative Council Hansard

Building Legislation Amendment (Smoke Alarms) Bill

Extract from NSW Legislative Council Hansard and Papers Thursday 23 June 2005.

Second Reading

The Hon. TONY KELLY (Minister for Rural Affairs, Minister for Local Government, Minister for Emergency Services, Minister for Lands, and Minister Assisting the Minister for Natural Resources) [10.20 .m.]: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

In 2004, the New South Wales Fire Brigades attended 4425 house fires across the State. Almost a third of these occurred during the winter months, when people are using fires, heaters and other electrical equipment.

We usually do not hear about most house fires—and that is largely because thanks to the valiant efforts of our two fire services, the fires are controlled before they reach a catastrophic stage. Thankfully, the vast majority of people escape with their lives.

However, there has been a tragic start to winter this year, with 13 people—including seven children—losing their lives in house fires in just over a fortnight in late May and early June. I am sure I speak for all honourable members when I extend the Parliament's sympathies to the families and friends of all these victims. Our thoughts and prayers are with them all.

In a bid to prevent more tragedies as a result of house fires, the Premier and I, as the Minister for Emergency Services, announced on June 14 that the Government would introduce new laws making it compulsory for smoke alarms to be installed in all existing homes and other buildings where people sleep. These include all homes, flats, boarding houses, motels, hotels, hostels and manufactured and moveable dwellings in New South Wales.

Under this bill, all of these dwellings must be fitted with either battery-operated, or hard-wired smoke alarms, by May 1, 2006. All rental properties will be covered by these amendments, and further regulations to be developed under the Conveyancing Act 1919 will require people selling their homes to state whether smoke alarms are installed.

These reforms will be part of a major fire safety campaign, developed with the expertise of our two fire service leaders—Commissioner Mullins from the New South Wales Fire Brigades and Commissioner Koperberg from the Rural Fire Service. This will include reinvigorated community education campaigns, new media advertisements and an expansion of the Fire Brigades' Smoke Alarm Battery Replacement for the Elderly [SABRE] program to other at-risk groups, including people with disabilities and from non-English speaking backgrounds.

The statistics mount a compelling case that a smoke alarm can mean the difference between life and death. Fire Brigades figures show that in the decade to 1999-2000, 88 per cent of fire deaths occurred in dwellings with no smoke alarms. Almost 59 per cent of deaths occurred between 9.00 p.m. and 6.00 a.m., when people can reasonably be assumed to be asleep. The elderly have a disproportionately high fire death rate compared to the rest of the population, with those 65 years and older accounting for 25 per cent of the victims.

Since around the mid-1990s, it has been a requirement under the Building Code of Australia in New South Wales for all new homes and those undergoing major renovations to be fitted with hard-wired smoke alarms. Smoke alarms also have been installed in all 130,000 New South Wales public housing homes since 1996, and concerted community education campaigns by the fire services have encouraged all home owners and occupants to install smoke alarms.

As a result, it is estimated that the percentage of homes with smoke alarms installed has risen from 28 per cent in the early 1990s to approximately 73 per cent in 2004. While it is clear that the majority of people have heeded this vital fire safety message, the Government is today moving to speed up the installation of these devices by the remainder of the community.

It is estimated that these amendments will apply to around 670,000 dwellings. We want to see 100 per cent of dwellings fitted with smoke alarms, and we believe the package of measures we are introducing today will help

achieve that outcome. I would urge families not to wait until the new laws take effect on 1 May next year but to buy and install a smoke alarm this week. They are relatively inexpensive—the battery-operated models retail for about \$20, and are easy to install. It is a small investment when you think it could save your's and your children's lives.

The Building Legislation Amendment (Smoke Alarms) Bill will amend the Environmental Planning and Assessment Act 1979 and the Residential Tenancies Act 1987 to require the installation and maintenance of smoke alarms in all existing buildings in which people sleep in New South Wales.

Specifically, schedule 1 to the bill inserts a new provision—section 146A—into the Environmental Planning and Assessment Act that will permit regulations to be made in respect to matters including:

- the installation of one or more smoke alarms in buildings in which persons sleep,
- the type and location of smoke alarms to be installed
- the maintenance of smoke alarms installed in such buildings, and
- prohibiting persons from removing or interfering with the operation of smoke alarms installed in such buildings.

Buildings are defined to include existing buildings, manufactured homes and moveable dwellings.

It will be an offence for any person to contravene the provisions of the regulations, with a maximum penalty of five (5) penalty units—\$550—applying. This is comparable to both Victoria and South Australia, which require the installation of alarms in all residential properties and have penalties of a \$750 fine, and five penalty units, respectively. In regard to enforcement, section 121B of the Environmental Planning and Assessment Act permits a consent authority to issue an order against the owner of premises to ensure or promote the safety of persons in the event of fire.

However, it is the Government's intent to promote compliance through a focus on community education, encouraging residents to install smoke alarms as a means of improving their home and family fire safety, rather than through the fear of sanctions. I outlined earlier, this will be assisted through community education programs, media advertisements and targeting of at-risk groups in the community. Specific campaigns will encourage people to change their smoke alarm batteries when they change their clocks for daylight saving.

The regulations will also specify the circumstances in which the consent of an owners' corporation is not required in relation to the installation of a smoke alarm in a strata title unit. For instance, a unit owner will not be required to obtain the consent of the owners' corporation to screw a battery-operated alarm to their ceiling, although this is defined as common property.

Schedule 2 inserts a new section 29A into the Residential Tenancies Act 1987 to make it a term of every residential agreement that landlords are required to ensure smoke alarms are installed, in accordance with the new section 146A of the Environmental Planning and Assessment Act in residential accommodation. It also specifies that neither the landlord nor the tenant is to remove or interfere with the operation of the smoke alarm, unless they have a reasonable excuse.

A failure by the landlord to have an operating smoke alarm in place at the start of the tenancy would constitute a breach of agreement and enable the tenant to apply to the Consumer, Trader and Tenancy Tribunal for an order against the landlord. The landlord would also be subject to a penalty under the Environmental Planning and Assessment Act. Schedule 2 to this bill also amends section 24 of the Residential Tenancies Act 1987 to allow landlords access to their rented premises to install smoke alarms by giving the tenants at least two (2) days' notice. The bill also makes clear that these regulations will apply to existing tenancy agreements.

New regulations also will be drafted under the Conveyancing Act 1919 requiring vendors selling residential property to disclose, without warranty, that smoke alarms are installed in the property.

Discussions between the Fire Brigades and building officials about the drafting of the regulations to which I have referred are already well under way. This will enable consultation to take place at the earliest possible stage with relevant stakeholders, before the regulations' introduction. As I indicated earlier, these new requirements will take effect on 1 May 2006. However, the Government intends for the regulations to be drafted and communicated to the New South Wales public well before this date.

I cannot stress strongly enough that the Government is today encouraging all householders not to wait for this legislative deadline but to act now. I appeal to every family in New South Wales to ensure they have taken basic precautions to ensure their homes are as fire safe as possible this winter. Please do not be complacent and think "it will never happen to me." It can, it does, and a \$20 smoke alarm could be the difference between saving your family's lives and utter tragedy.

I commend the bill to the House.