

Calendar No. 323

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
114-179

NICHOLAS AND ZACHARY BURT MEMORIAL
CARBON MONOXIDE POISONING PREVEN-
TION ACT OF 2015

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1250



DECEMBER 14, 2015.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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NICHOLAS AND ZACHARY BURT MEMORIAL CARBON MONOXIDE POISONING PREVENTION ACT OF 2015

DECEMBER 14, 2015.—Ordered to be printed

Mr. THUNE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1250]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1250) to encourage States to require the installation of residential carbon monoxide detectors in homes, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 1250, the Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act of 2015, is to establish a grant program to encourage States and tribal organizations to require the installation of residential carbon monoxide detectors in homes.

BACKGROUND AND NEEDS

Carbon monoxide is an odorless, colorless, and toxic gas. At lower levels of exposure, it can cause mild, flu-like symptoms. These symptoms include headaches, dizziness, disorientation, nausea, and fatigue. At higher levels, carbon monoxide poisoning can result in mental confusion, vomiting, loss of muscular coordination, loss of consciousness, and death. Carbon monoxide is produced by burning fuels such as coal, wood, charcoal, oil, kerosene, propane, or natural gas. Internal combustion engine-powered equipment like portable generators, cars, and lawn mowers also produce carbon monoxide.

The Centers for Disease Control and Prevention (CDC) tracks carbon monoxide injury and death in the United States. Between

1999 through 2010, the CDC reported an average of 430 unintentional, non-fire related carbon monoxide poisoning deaths annually in the United States.¹ In 2007, there were 221,304 emergency department visits for confirmed cases of unintentional, non-fire related carbon monoxide poisoning in the United States.² One study found that the nonfatal exposures were found to occur in homes in 64 percent of the cases and in public facilities and areas in 21 percent of the cases.³

The American National Standards Institute (ANSI) and Underwriters Laboratories (UL) publish voluntary consensus standards regarding carbon monoxide alarms. The ANSI/UL 2034 Standard for Single and Multiple Station Carbon Monoxide Alarms covers electrically operated single and multiple station carbon monoxide alarms intended for protection in ordinary indoor locations of dwelling units, including recreational vehicles, mobile homes, and recreational boats with enclosed accommodation spaces and cockpit areas. The ANSI/UL 2075 Standard for Gas and Vapor Detectors and Sensors covers toxic and combustible gas and vapor detectors and sensors intended to be portable or employed in indoor or outdoor locations. The National Fire Protection Association (NFPA) publishes a standard, NFPA 720, for the Installation of Carbon Monoxide Detection and Warning Equipment which contains requirements for the performance, installation, operation, inspection, testing, and maintenance of carbon monoxide detection and warning equipment.

The Congressional Fire Services Institute has backed a resolution proposed by the National Association of State Fire Marshals to support requiring carbon monoxide devices that meet the ANSI/UL standards and to encourage States to require the installation of such carbon monoxide devices in accordance with NFPA 720.⁴

As of March 5, 2015, 29 States have enacted statutes or codes to require carbon monoxide detector devices in certain residential buildings. State requirements vary, with some applying only to new homes and others to new and existing homes.⁵ For instance, Connecticut requires carbon monoxide detectors in all new construction, as do Georgia and New Hampshire, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Washington, and West Virginia. Florida also requires them in new construction, and in every room with a boiler.

Illinois requires a carbon monoxide detector within 15 feet of every sleeping room. Massachusetts and Minnesota require a carbon monoxide detector within 10 feet of every sleeping room. Maryland requires them in new construction and all public school buildings. New Jersey requires them to be installed at occupancy.

¹ Ctrs. For Disease Control, Carbon Monoxide-Related Deaths—United States, 1999 – 2004, 56 MORBIDITY AND MORTALITY WEEKLY REPORT 1309 (2007), available at <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6303a6.htm>.

² Shahed Iqbal, Hospital Burden of Unintentional Carbon Monoxide Poisoning in the United States, 30 Am. J. Emerg. Med. 657 (2012).

³ Ctrs. For Disease Control, Unintentional Non-fire Related Carbon Monoxide Exposures—United States, 2001–2003, 54 MORBIDITY AND MORTALITY WEEKLY REPORT 36 (2005).

⁴ Nat'l Ass'n of State Fire Marshals, Resolution to Support Initiatives Requiring Residential Carbon Monoxide Detection Devices to Meet the Applicable ANSI/UL Standard As a Mandatory Consumer Product Safety Regulation (2011) (on file with minority staff).

⁵ See Nat'l Conference of State Legislatures, Carbon Monoxide Detectors State Statutes (Mar. 5, 2015) (State-by-State summary), available at <http://www.ncsl.org/research/environment-and-natural-resources/carbon-monoxide-detectors-state-statutes.aspx>.

New York amended its Fire Prevention and Building Code to require carbon monoxide detectors in new construction. North Carolina and West Virginia require them in every dwelling with a fossil fuel burning heater, fireplace, or attached garage.

Texas requires carbon monoxide detectors in day care centers. Montana requires them in rental units. Wisconsin requires them in public buildings with sleeping areas.

Delaware, Maryland, and Virginia prohibit tampering with carbon monoxide detectors installed by landlords. Tennessee requires carbon monoxide detectors in recreational vehicles that are rented or leased.

SUMMARY OF PROVISIONS

S. 1250 would direct the Consumer Product Safety Commission (CPSC) to establish a grant program, subject to the availability of appropriations, to provide assistance to eligible States and tribal organizations to carry out carbon monoxide poisoning prevention activities. In order to be eligible, a State or tribal organization would need to demonstrate to the satisfaction of the CPSC that the State or tribal organization has adopted a statute that requires compliant carbon monoxide detectors installed in accordance with NFPA 720, and to submit an application in a timely manner. In order to determine the amount of the grants awarded, S. 1250 would obligate the CPSC to prioritize and give favorable consideration to applications from States and tribal organizations that meet specified criteria. The legislation would permit States or tribal organizations receiving grants to use funds to purchase and install carbon monoxide alarms⁶ in dwelling units of low-income families or elderly persons, childcare facilities, public schools, senior centers, or student dwelling units owned by public universities; train State or tribal fire code enforcement officials regarding compliance and installation; and educate the public about the risk of carbon monoxide poisoning. S. 1250 contains a limitation that not more than 5 percent of any grant award may be used to cover administrative costs not directly related to training of fire code enforcement officials in the proper enforcement of laws concerning carbon monoxide alarms and their installation. Additionally, S. 1250 contains a limitation that not more than 25 percent of any grant awarded may be used to educate the public about the risk associated with carbon monoxide as a poison and the importance of proper carbon monoxide alarm use.

S. 1250 would authorize appropriations of \$2 million for each of fiscal year (FY) 2015 through FY 2019. The CPSC would determine the amount of the grants. Funds unexpended and unobligated on September 30, 2019, would be retained by the CPSC and credited to an account that funds the enforcement of the Consumer Product Safety Act (15 U.S.C. 2051 et seq.).

S. 1250 would require the CPSC to submit a report to Congress that evaluates the implementation of the program not later than 1 year after the last day of each FY for which grants are awarded under the program.

⁶ Carbon monoxide alarm would be defined in the bill as a device or system that detects carbon monoxide; and is intended to alarm at carbon monoxide concentrations below those that could cause a loss of ability to react to the dangers of carbon monoxide exposure.

LEGISLATIVE HISTORY

Senators Klobuchar, Casey, and Schumer introduced S. 1250 on May 7, 2015. The bill also is cosponsored by Senators Blumenthal, Franken, and Menendez. On June 25, 2015, in an open Executive Session, the Committee considered the bill and reported S. 1250, as amended, favorably by voice vote. The Committee adopted a substitute amendment from Senator Klobuchar to make technical modifications to the bill and to limit grant recipients' administrative expenses to 5 percent of grant monies awarded and to clarify that tribal organizations would be eligible to participate in the grant program.

Similar legislation (S. 1793) was introduced by Senators Klobuchar, Casey, and Schumer in the 113th Congress. The Committee reported that bill favorably by voice vote on April 9, 2014.

Similar legislation (S. 3343) was introduced by Senators Klobuchar and Snowe in the 112th Congress. That bill authorized the grant program in S. 1250, but in addition, S. 3342 also would have required the CPSC to publish the ANSI/UL voluntary standard for carbon monoxide alarms as a mandatory standard. S. 3342 would have made it unlawful for any manufacturer or distributor to import or distribute any new assembled or unassembled residential carbon monoxide detector unless it complies with the standard.

Similar legislation (S. 1216) was introduced by Senator Klobuchar in the 111th Congress. S. 1216 would also have required the CPSC to issue a final rule on portable generators, requiring those devices to have an automatic shutoff feature, if technologically feasible.

The Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation of the Senate previously held a hearing on carbon monoxide poisoning in the 111th Congress on December 17, 2009 (S. Hrg. 111-520).

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 1250—Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act of 2015

Summary: S. 1250 would authorize the appropriation of funds for the Consumer Product Safety Commission (CPSC) to award grants to states and tribal governments for activities related to preventing carbon monoxide poisoning. The CPSC also would be required to report to the Congress on the implementation of the grant program. Based on the spending patterns for similar grants, CBO estimates that implementing the bill would cost \$8 million over the 2016–2020 period, assuming appropriation of the specified amounts. Enacting this legislation would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 1250 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1250 is shown in the following table. The costs of this legislation fall within budget function 550 (health).

	By fiscal year, in millions of dollars—					
	2016	2017	2018	2019	2020	2016–2020
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Authorization Level	2	2	2	2	0	8
Estimated Outlays	1	1	2	2	2	8

Basis of estimate: For this estimate, CBO expects that S. 1250 will be enacted near the end of fiscal year 2015, that the Congress will appropriate the authorized amounts for each year beginning in 2016, and that spending will follow the historical patterns for similar programs.

S. 1250 would authorize the appropriation of \$2 million per year over the 2015–2019 period for the CPSC to award grants to states and tribal governments for activities related to preventing carbon monoxide poisoning. Such activities would include purchasing and installing carbon monoxide alarms; training fire code enforcement officials; developing and disseminating training materials; and educating the public about the risks associated with carbon monoxide. The bill also would direct the agency to evaluate the implementation of the grant program no later than one year after the final grant is awarded.

Based on the expenditure patterns of similar programs, such as the Lead Hazard Reduction Demonstration Grant Program of the Department of Housing and Urban Development, CBO estimates that implementing S. 1250 would cost \$8 million over the 2016–2020 period.

Pay-As-You-Go considerations: None.

Intergovernmental and private-sector impact: S. 1250 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments. State, local, and tribal entities could benefit from grants authorized in the bill for activities that prevent carbon monoxide poisoning. Any costs associated with receiving such grants would be incurred voluntarily as a condition of receiving federal assistance.

Estimate prepared by: Federal Costs: Daniel Hoople; Impact on State, Local, and Tribal Governments: J'nell Blanco Suchy; Impact on the Private Sector: Amy Petz.

Estimate approved by: Holly Harvey, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

The legislation would direct the CPSC to establish a grant program for States and tribal organizations that require the installation of compliant carbon monoxide alarms in dwelling units and other eligible facilities. The grant program would further aid States

and tribal organizations in training and educational programs with regard to carbon monoxide poisoning and prevention.

ECONOMIC IMPACT

This legislation is not expected to have an adverse economic impact on the Nation.

PRIVACY

S. 1250 would not have a negative impact on the personal privacy of individuals.

PAPERWORK

S. 1250 would create a new reporting requirement for the CPSC. The CPSC would be directed to submit a report to Congress that evaluates the implementation of the program not later than one year after the last day of each fiscal year for which grants are awarded.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

Section 1 would designate the short title of this bill as the “Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act of 2015.”

Section 2. Findings.

Section 2 would provide the findings of Congress, including the dangers of carbon monoxide poisoning and the utility of carbon monoxide alarms.

Section 3. Definitions.

Section 3 would define terms used throughout the bill. The most notable terms are “carbon monoxide alarm,” “compliant carbon monoxide alarm,” and “dwelling unit.”

A “carbon monoxide alarm” would mean a device or system that detects carbon monoxide and that is intended to alarm consumers of carbon monoxide at concentration levels below those that could cause a loss of ability to react to the dangers of carbon monoxide exposure.

A “compliant carbon monoxide alarm” would mean one that complies with the most current version of the American National Standard for Single and Multiple Station Carbon Monoxide Alarms (ANSI/UL 2034) and the American National Standard for Gas and Vapor Detectors and Sensors (ANSI/UL 2075).

A “dwelling unit” would mean a room or suite of rooms used for human habitation, and would include a single-family as well as each living unit of a multiple-family residence (including apartment buildings) and each living unit in a mixed use building.

Section 4. Grant program for carbon monoxide poisoning prevention.

Section 4 would direct the CPSC to establish, subject to appropriations, a grant program for States and tribal organizations that have adopted a statute or regulation requiring complaint carbon monoxide alarms be installed in dwelling units and other eligible facilities.

Section 4 would authorize an appropriation of \$2 million for each of FY 2015 through FY 2019 to the CPSC to carry out this Act. No more than 10 percent of funds appropriated may be used for administrative purposes.

The CPSC would determine grant amounts, giving priority to States or tribal organizations that: prioritize installation of compliant carbon monoxide alarms in new or existing facilities or dwelling units with fuel-burning appliances or attached garages; and have developed a strategy to protect vulnerable populations such as children, the elderly, or low-income household residents.

Grants awarded under the program could be used for four purposes: (1) to purchase and install compliant carbon monoxide alarms in the dwelling units of low-income families or elderly persons, facilities that commonly serve children or the elderly (including child care facilities, public schools, and senior centers), or student dwelling units owned by public universities; (2) to train fire code enforcement personnel; (3) to create training materials; and (4) to educate the public about the risks associated with carbon monoxide poisoning.

Section 4 contains a limitation that not more than 5 percent of any grant received may be used to cover administrative costs not directly related to training of fire code enforcement officials in the proper enforcement of laws concerning carbon monoxide alarms and their installation. No more than 25 percent of any grant funds could be used to educate the public about the risk associated with carbon monoxide as a poison and the importance of proper carbon monoxide alarm use.

Section 4 would require the CPSC to submit a report to Congress that evaluates the implementation of the program not later than 1 year after the last day of each FY for which grants are awarded under the program.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.