

**Calendar No. 524**

116TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
116-261 }

NICHOLAS AND ZACHARY BURT MEMORIAL  
CARBON MONOXIDE POISONING PREVEN-  
TION ACT OF 2019

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 481



SEPTEMBER 8, 2020.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED SIXTEENTH CONGRESS

SECOND SESSION

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### NICHOLAS AND ZACHARY BURT MEMORIAL CARBON MONOXIDE POISONING PREVENTION ACT OF 2019

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

### R E P O R T

[To accompany S. 481]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 481) 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. 481, the Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act, as reported, is to direct the Consumer Product Safety Commission (CPSC or Commission) to establish a grant program to provide monetary assistance to eligible States and Tribal organizations to carry out specified carbon monoxide (CO) poisoning prevention activities. Unintentional CO poisoning from motor vehicles and improper operation of fuel-burning appliances, such as furnaces, water heaters, portable generators, and stoves, annually kills hundreds of individuals and sends thousands to hospital emergency rooms for treatment.

On January 5, 1996, several members of the Burt family, from Kimball, Minnesota, lost their lives due to CO poisoning. Todd Burt woke up to find his wife unable to move, their 5-year-old son Ryan nearly dead and their 16-month-old son Zachary and 4-year-old son Nicholas dead. S. 481 is titled in memory of Nicholas and Zachary Burt.

## BACKGROUND AND NEEDS

## According to the CPSC:

Carbon monoxide (CO) is a deadly, colorless, odorless, and poisonous gas. It is produced by the incomplete burning of various fuels, including coal, wood, charcoal, oil, kerosene, propane, and natural gas. Products and equipment powered by internal combustion engines such as portable generators, cars, lawn mowers, and power washers also produce CO.<sup>1</sup>

The production of life-threatening levels of CO is more common among malfunctioning older furnaces as well as HVAC systems and gas water heaters that have not been properly vented.<sup>2</sup> Electric furnaces, electric water heaters, electric ovens, and all other electrically powered devices typically do not produce CO when operating as designed.<sup>3</sup>

According to the CPSC, approximately 170 people in the United States die every year from accidental non-fire related CO poisoning associated with consumer products.<sup>4</sup> The Centers for Disease Control and Prevention (CDC) estimates that there are over 400 deaths and 50,000 emergency room visits as a result of CO poisoning each year.<sup>5</sup> CO is also the leading cause of accidental poisoning death in the United States.<sup>6</sup> CO poisoning is often misdiagnosed or under-detected as its symptoms mimic those of the flu, with headache, nausea, and dizziness being the most common.<sup>7</sup> Children and older adults face a higher risk of death if exposed to CO poisoning.<sup>8</sup>

To prevent CO poisoning, consumers are encouraged to make sure home appliances are installed and operated according to manufacturer instructions and building codes, and to follow guidance in owners' manuals when performing minor adjustments or servicing fuel-burning equipment.<sup>9</sup> Consumers are also cautioned to avoid operating gasoline engine-powered tools, such as portable generators, in or near enclosed spaces.<sup>10</sup>

In addition to following these safety measures, the installation of CO alarms or detectors can provide added protection to individuals as CO detectors are designed to trigger an alarm based on the accumulation of unsafe levels of CO over time.<sup>11</sup> The Environmental

<sup>1</sup>U.S. Consumer Product Safety Commission, "Carbon Monoxide Fact Sheet" (<https://www.cpsc.gov/safety-education/safety-guides/carbon-monoxide/carbon-monoxide-fact-sheet>) (accessed Jul. 10, 2020).

<sup>2</sup>Leonard Howard, "Hidden Problems Can Cause Carbon Monoxide," *The News*, Oct. 11, 2001 (<https://www.achrnews.com/articles/186455-hidden-problems-can-cause-carbon-monoxide>) (accessed Jul. 10, 2020).

<sup>3</sup>Jacob Hurwith, "How to Test for Carbon Monoxide in Your Home," *The Spruce*, Feb. 8, 2020 (<https://www.thespruce.com/test-for-carbon-monoxide-in-home-1824926>) (accessed Jul. 10, 2020).

<sup>4</sup>U.S. Consumer Product Safety Commission, "Carbon Monoxide Fact Sheet" (<https://www.cpsc.gov/safety-education/safety-guides/carbon-monoxide/carbon-monoxide-fact-sheet>) (accessed Jul. 10, 2020).

<sup>5</sup>Centers for Disease Control and Prevention, "Carbon Monoxide (CO) Poisoning Prevention," page last reviewed Jan. 20, 2020 (<https://www.cdc.gov/nceh/features/copoisoning/index.html>) (accessed Jul. 10, 2020).

<sup>6</sup>Centers for Disease Control and Prevention "Carbon Monoxide Poisoning," page last reviewed Jan. 3, 2020 (<https://www.cdc.gov/co/default.htm>) (accessed Jul. 10, 2020).

<sup>7</sup>U.S. Consumer Product Safety Commission, "Carbon Monoxide Fact Sheet" (<https://www.cpsc.gov/safety-education/safety-guides/carbon-monoxide/carbon-monoxide-fact-sheet>) (accessed Jul. 10, 2020).

<sup>8</sup>Mayo Clinic, "Carbon Monoxide Poisoning," Oct. 16, 2019 (<https://www.mayoclinic.org/diseases-conditions/carbon-monoxide/symptoms-causes/syc-20370642>) (accessed Jul. 10, 2020).

<sup>9</sup>U.S. Consumer Product Safety Commission, "Carbon Monoxide Fact Sheet" (<https://www.cpsc.gov/safety-education/safety-guides/carbon-monoxide/carbon-monoxide-fact-sheet>) (accessed Jul. 10, 2020).

<sup>10</sup>Id.

<sup>11</sup>ANSI News and Publications, "Carbon Monoxide Detectors Save Lives," Nov. 10, 2004 ([https://www.ansi.org/news\\_publications/news\\_story?menuid=7&articleid=137d4b24-1e08-46d7-8980-8947de476f89](https://www.ansi.org/news_publications/news_story?menuid=7&articleid=137d4b24-1e08-46d7-8980-8947de476f89)) (accessed Jul. 10, 2020).

Protection Agency (EPA) estimates that CO alarms could prevent half of all unintentional CO poisonings.<sup>12</sup>

There are currently 47 States<sup>13</sup> with laws requiring CO detectors in residential dwellings, and the remaining States without laws are expected to adopt similar legislation or building codes requiring CO detectors in the coming years. Some State laws require every enclosed room to have a CO detector, while others require every room that has a smoke alarm to have a CO detector.<sup>14</sup> Other State law requirements include the installation of CO detectors in daycare centers and group homes, hotels and motels, school buildings, and other private dwellings.<sup>15</sup>

The Act is intended to help States, local governments, and Tribes implement carbon monoxide programs and ensure families are protecting themselves and their loved ones from CO poisoning.

#### SUMMARY OF PROVISIONS

S. 481, as amended, would do the following:

- Direct the CPSC to establish a grant program to provide assistance to eligible States and Tribal organizations to carry out CO poisoning prevention activities. Those activities include, but are not limited to, the purchase and installation of CO detectors in dwelling units of vulnerable populations, such as the dwelling units of low-income families or elderly individuals, and facilities that commonly serve children or the elderly and student populations; the development and dissemination of training materials; and educating the public about the risks of CO poisoning.
- Authorize the CPSC to establish a Federal grant program for fiscal years 2020 to 2024 using funds already appropriated to help States, local governments, and Tribes to carry out CO education programs.
- Require the CPSC to submit a report to Congress at the end of each fiscal year evaluating the implementation of the grant program, among other provisions.

#### LEGISLATIVE HISTORY

S. 481, the Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act of 2019, was introduced on February 13, 2019, by Senator Klobuchar (for herself and Senator Hoeven) and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Cramer, Smith, and Blumenthal are additional cosponsors. On November 13, 2019, the Committee met in open Executive Session and, by voice vote, ordered S. 481 reported favorably with an amendment (in the nature of a substitute).

A companion to the bill, H.R. 1618, was introduced on March 7, 2019, by Representative Kuster [D–NH] (for herself and Represent-

<sup>12</sup> Environmental Protection Agency, “Preventing Carbon Monoxide Poisoning: Information for Older Adults and Their Caregivers,” Jan. 2009 ([https://www.epa.gov/sites/production/files/2015-08/documents/pcmp\\_english\\_100-f-09-001.pdf](https://www.epa.gov/sites/production/files/2015-08/documents/pcmp_english_100-f-09-001.pdf)) (accessed Jul. 10, 2020).

<sup>13</sup> First Alert, see Smoke and Carbon Monoxide in “Fire Safety Laws and Legislation by State” (<https://www.firstalert.com/community/legislation/>) (accessed Jul. 10, 2020).

<sup>14</sup> National Conference of State Legislatures, “Carbon Monoxide Detector Requirements, Laws, and Regulations,” Mar. 27, 2018 (<https://www.ncsl.org/research/environment-and-natural-resources/carbon-monoxide-detectors-state-statutes.aspx>) (accessed Jul. 10, 2020).

<sup>15</sup>Id.

ative Carter [R–GA]) and was referred to the Committee on Energy and Commerce of the House of Representatives. The House passed H.R. 1618, as amended, on September 17, 2019.

#### 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:

<b>S. 481, Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act of 2019</b>			
As ordered reported by the Senate Committee on Commerce, Science, and Transportation on November 13, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2024	2020-2029
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	1	8	not estimated
Statutory pay-as-you-go procedures apply?	No	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

S. 481 would authorize \$2 million for each year over the 2020–2024 period for the Nicholas and Zachary Burt Memorial grant program, which provides assistance to states carrying out prevention activities for carbon monoxide poisoning. The legislation also would require the Consumer Product Safety Commission to submit a report to the Congress that evaluates the implementation of the grant program no later than one year after each fiscal year for which grants are awarded. Based on historical spending for these activities, including the reporting requirement, CBO estimates that enacting the bill would cost \$8 million over the 2020–2024 period, assuming appropriation of the authorized and necessary amounts.

On September 16, 2019, CBO transmitted a cost estimate for H.R. 1618, the Nicholas and Zachary Burt Carbon Monoxide Poisoning Prevention Act of 2019, as ordered reported by the House Committee on Energy and Commerce on July 17, 2019. The Senate and House bills are identical, and CBO’s estimates are the same.

The CBO staff contact for this estimate is Philippa Haven. The estimate was reviewed by Leo Lex, Deputy Assistant Director for Budget Analysis.

#### REGULATORY IMPACT STATEMENT

Because S. 481 does not create any new programs, the legislation will have no additional regulatory impact, and will result in no additional reporting requirements. The legislation will have no further effect on the number or types of individuals and businesses regulated, the economic impact of such regulation, the personal pri-

vacy of affected individuals, or the paperwork required from such individuals and businesses.

#### 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.*

This section would provide that the bill may be cited as the “Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act of 2019”.

##### *Section 2. Findings and sense of Congress.*

This section would state the findings of Congress regarding the dangers of CO poisoning, the scope of the problem of CO poisoning, and how the installation of CO alarms close to sleeping areas in residential homes and other dwelling units can help avoid fatalities. This section would also state the sense of Congress that the installation of CO detectors in homes and dwelling units should be promoted to benefit the health and public safety of citizens throughout the United States.

##### *Section 3. Definitions.*

This section would define the term “compliant carbon monoxide alarm” as one that complies with the most current versions of two standards issued by the American National Standards Institute and Underwriters Laboratories (ANSI/UL): the Standard for Single and Multiple Station Carbon Monoxide Alarms (ANSI/UL 2034) and the Standard for Gas and Vapor Detectors and Sensors (ANSI/UL 2075), or any successor standards thereof. This section would also define the term “NFPA 720” to mean the Standard for the Installation of Carbon Monoxide Detection and Warning Equipment issued by the National Fire Protection Association in 2012 and any amended or similar successor standard. This section would also define the terms “carbon monoxide alarm”, “Commission”, “dwelling unit”, “fire code enforcement officials”, “IFC”, “IRC”, “State”, and “Tribal organization”.

##### *Section 4. Grant program for carbon monoxide poisoning prevention.*

This section would direct the Commission to establish a grant program to provide assistance to States and Tribal organizations to carry out certain CO poisoning prevention activities. To be eligible, this section would require a State or Tribal organization to demonstrate to the Commission that such State or Tribal organization has adopted a statute or regulation with the force and effect of law that requires compliant CO alarms to be installed in dwelling units in accordance with NFPA 72, the IFC, or the IRC. Such States or Tribal organizations would also be required to submit an application to that effect.

This section would direct the Commission to determine the amount of each grant awarded under this section. This section would also direct the Commission to give favorable consideration to eligible State or Tribal organizations that require the installation of compliant CO alarms in certain new or existing buildings within which a fuel-burning appliance has been installed or has an attached garage, and has developed a strategy to protect vulnerable populations from exposure to unhealthy levels of CO.

This section would allow a State or Tribal organization to which a grant is awarded to use the grant funding to purchase and install compliant CO alarms in the dwelling units of low-income families or elderly individuals, facilities that commonly serve children or the elderly, or student dwelling units owned by public universities. Funds may also be used to train State, Tribal, or local fire code enforcement officials on the proper enforcement of requirements; to develop and disseminate training materials, hire instructors, and cover other costs associated with training sessions; or to educate the public about CO poisoning risks and the importance of proper CO alarm use.

This section would limit the amount of the grant funding that a recipient may spend on administrative costs to not more than 5 percent of the amount awarded. This section would also limit the amount of the grant funding that a recipient may spend on public outreach activities to not more than 25 percent of the amount awarded. In addition, this section directs the Commission to use funds already appropriated to the CPSC for the grant program, and requires States to provide 20 percent in non-Federal contributions of the amount of Federal funds provided in the grant. Tribal organizations would be exempt from the cost-sharing requirements. This section would also require the Commission to provide an annual report to Congress that evaluates the program in each year grants are awarded.

#### 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.