Bill as Introduced

HB 654-FN – AS INTRODUCED

2003 SESSION

03-0820
04/09

HOUSE BILL ***654-FN***

AN ACT relative to criminal liability for the destruction or disconnection of a smoke detector by a tenant in a rental dwelling.

SPONSORS: Rep. Akins, Graf 18; Rep. Dudley, Graf 18

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill makes a tenant criminally liable for destroying, disconnecting, or rendering inoperable a smoke detector in a rental dwelling and provides that the tenant shall be liable for full restitution to the landlord.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 654-FN – AS INTRODUCED

03-0820
04/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to criminal liability for the destruction or disconnection of a smoke detector by a tenant in a rental dwelling.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Paragraph; Criminal Mischief; Destruction or Disconnection of a Smoke Detector. Amend RSA 634:2 by inserting after paragraph VIII the following new paragraph:

IX. Any person who is found guilty of criminal mischief under this section because such person is a tenant in a rental dwelling who has destroyed, disconnected, or otherwise rendered inoperable any smoke detector in the rental dwelling, or who has attempted the same in a rental dwelling, shall be liable for full restitution to the landlord.

2 Effective Date. This act shall take effect January 1, 2004.

LBAO
03-0820
1/27/03

HB 654-FN - FISCAL NOTE

AN ACT relative to criminal liability for the destruction or disconnection of a smoke detector by a tenant in a rental dwelling.

FISCAL IMPACT:

The Judicial Branch, Judicial Council and the Association of Counties have determined this bill may increase state and county expenditures by an indeterminable amount in FY 2004 and each year thereafter. There will be no fiscal impact on local expenditures or state, county and local revenues.

METHODOLOGY:

The Judicial Branch stated this bill would add restitution to the landlord to the criminal penalties for criminal mischief when a tenant in a rental dwelling destroys, disconnects, or otherwise renders inoperable a smoke detector in the dwelling. Adding restitution to the criminal penalties is unlikely to increase the number of prosecutions for criminal mischief, therefor, this bill should have minimal fiscal impact on the Judicial Branch. In fact, even without the legislation, restitution is often a common sentencing tool for certain offenses.

The Judicial Council states this bill makes a tenant criminally liable for destroying, disconnecting, or rendering inoperable a smoke detector in a rental dwelling and provides that the tenant shall be liable for full restitution to the landlord. The criminal mischief offenses currently carry a class B felony penalty provision. This bill creates a new felony B charge that creates a new crime for which indigent defense representation and related services may be required. Since this is a new charge there is no historical data upon which to draw on to assist in determining the exact cost of this bill. It is assumed that the court will appoint in the first instance either a public defender or a contract attorney, either of whom will be paid at the fixed contract rate of $687.50 per felony charged. If an assigned counsel attorney must be used either due to conflict of interest or for reasons of caseload limitations, the $60 per hour rate will apply to the case, with a fee cap of $3,000. The fee cap may be waived upon motion filed in advance with the court. If any "services other than counsel" are filed as a necessary part of the defense of the case, they would also be payable from Indigent Defense funds. Since it is not possible to accurately predict the number of cases that may result from this bill, it is likewise not possible to place and exact dollar figure on the potential cost associated with this bill.

The Department of Justice states the Department seldom becomes involved in the prosecution of the offense of criminal mischief and it is assumed that the Department would continue to not be involved. If the Department were, the number of instances would be negligible and the cost of prosecution would not increase as a direct result of this bill.

The Association of Counties states this bill creates a new misdemeanor. Such a penalty creates a cost for the county correctional facilities. The direct impact on county expenditures will depend on the number of individuals sentenced, as well as those who are incarcerated pre-trial in a county facility. The average annual cost for the counties to incarcerate inmates is $21,634.

Amendments

Rep. Bicknell, Rock. 73
March 12, 2003
2003-0654h
04/09

Amendment to HB 654-FN

Amend RSA 634:2, IX as inserted by section 1 of the bill by replacing it with the following:

IX. Any person who is found guilty of criminal mischief under this section because such person is a tenant, or a guest of such tenant, in a rental dwelling who has destroyed, disconnected, or otherwise rendered inoperable any smoke detector in the rental dwelling, or who has attempted the same in a rental dwelling, shall be guilty of a misdemeanor.

2003-0654h

AMENDED ANALYSIS

This bill makes a tenant or a guest of such tenant criminally liable for destroying, disconnecting, or rendering inoperable a smoke detector in a rental dwelling and provides that the tenant or guest of such tenant shall be guilty of a misdemeanor.

Rep. Bicknell, Rock. 73
March 12, 2003
2003-0654h
04/09

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IX. Any person who is found guilty of criminal mischief under this section because such person is a tenant, or a guest of such tenant, in a rental dwelling who has destroyed, disconnected, or otherwise rendered inoperable any smoke detector in the rental dwelling, or who has attempted the same in a rental dwelling, shall be guilty of a misdemeanor.

2003-0654h

AMENDED ANALYSIS

This bill makes a tenant or a guest of such tenant criminally liable for destroying, disconnecting, or rendering inoperable a smoke detector in a rental dwelling and provides that the tenant or guest of such tenant shall be guilty of a misdemeanor.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB654 Date 3/19/2003

Committee CJ & PS

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
Rep Joseph Harris	43 Ridge Ave Claremont			X	
Christine Cunningham	6 Bailey Ave Claremont			X	
DONALD GOBIN				X	
BILL COREY	798G COURT ST		KEENE NH W.J. COREY PROP. LLC	X	
Joe Nelson	48 Basin Pl. Dover, NH.		431-5000	X	
Rep. Lawly Harris	43 Ridge Ave Claremont			X	

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 654-FN

BILL TITLE: **relative to criminal liability for the destruction or disconnection of a smoke detector by a tenant in a rental dwelling.**

DATE: **Feb. 19, 2003**

LOB ROOM: **204** **Time Public Hearing Called to Order:** 10:08 Am

Time Adjourned: 10:50 Am.

(please circle if present)

Committee Members: Reps. Welch, Tholl, Fesh, Jones, Kennedy, K Gilbert, Nedeau, Stevens, Weare, Bemis, Bicknell, Fish, Oliver, D. Smith, Winchell, Knowles, Callaghan, Movsesian, Berube, Pantelakos and T. Robertson.

Bill Sponsors: Reps. Akins, Dudley

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Rep. Akins, sponsor, supporting
-smoke alarms are very important as a life-saving device
-intent is to make tenant responsible for its maintenance
-intends "full restitution" to include paying for the building if it burns down.

In response to a number of questions Rep. Akins wants to add "failure to maintain" to the bill

Rep. Christiansen, supporting
-this bill needs a lot of work
-landlord should be responsible for maintenance

*Larry Guaraldi, NH Property Owners and self
- supporting
-thinks maintenance should be included as part of the bill

Christine Cunningham, 6 Bailey Ave., Claremont, representing Century 21 Realty, Property Management Division
-supporting
-as a realtor, can't get into building to check smoke detectors
-need more than an annual inspection – need to be able to enter apartment on a more frequent basis
-tenant insurance is not required
-need to make tampering a criminal offense

Joe Nelson, 48 Basil Place, Dover, representing NHPOA
- supporting
-reiterated what was said by other speakers

Respectfully submitted,

Rep. Stanley E. Stevens, Clerk

Sub-Committee:
Chairman: Rep. Bicknell
Rep. Knowles, Rep. Winchell

Sub-Committee Actions

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 654-FN

BILL TITLE: **relative to criminal liability for the destruction or disconnection of a smoke detector by a tenant in a rental dwelling.**

DATE: March 12, 2003 - wed @ 0900hrs, Rm 204 LOB

Subcommittee Members: Reps. G. Winchell - W. Knowles - E. Bicknell

Comments and Recommendations:

Amendments:

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Sponsor: Rep. _____ OLS Document #: _____ Adopted/Failed

Motions: OTP, (OTP/A), ITL, Interim Study (Please circle one.)

Moved by Rep. W. Knowles

Seconded by Rep. G. Winchell

Vote: 3/0

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. _____

Seconded by Rep. _____

Vote: _____

Respectfully submitted,

Rep. Elliot Bicknell
Subcommittee Chairman/Clerk

Testimony

HB 654
Relative to destruction of smoke detector by tenants

Ladies and Gentlemen of the Criminal Justice Committee:

Because of staff illnesses where I work, I find it impractical to be with you today. However, I have some strong feelings about this potential legislation that I would like to share with you.

For the record I am Sharon Guaraldi from Lebanon, NH. Yes, I am spouse of Lawrence Guaraldi who is attending the hearing today and we do own rental property.

I come here today not as a landlord but as a mother who has had children living in rental property. I ask you to put yourself in the position of any parent who has had a child in an unsafe environment either by choice or accident.

When a person is renting a property they have the expectation of safety. If others in the property make changes to create a hazard their lives can be in danger beyond their control and often times beyond the control of their landlord.

This is the issue with destruction of smoke detectors. Currently there is little to no control present for the landlord to maintain a safe environment when a tenant does tamper with these safety devices.

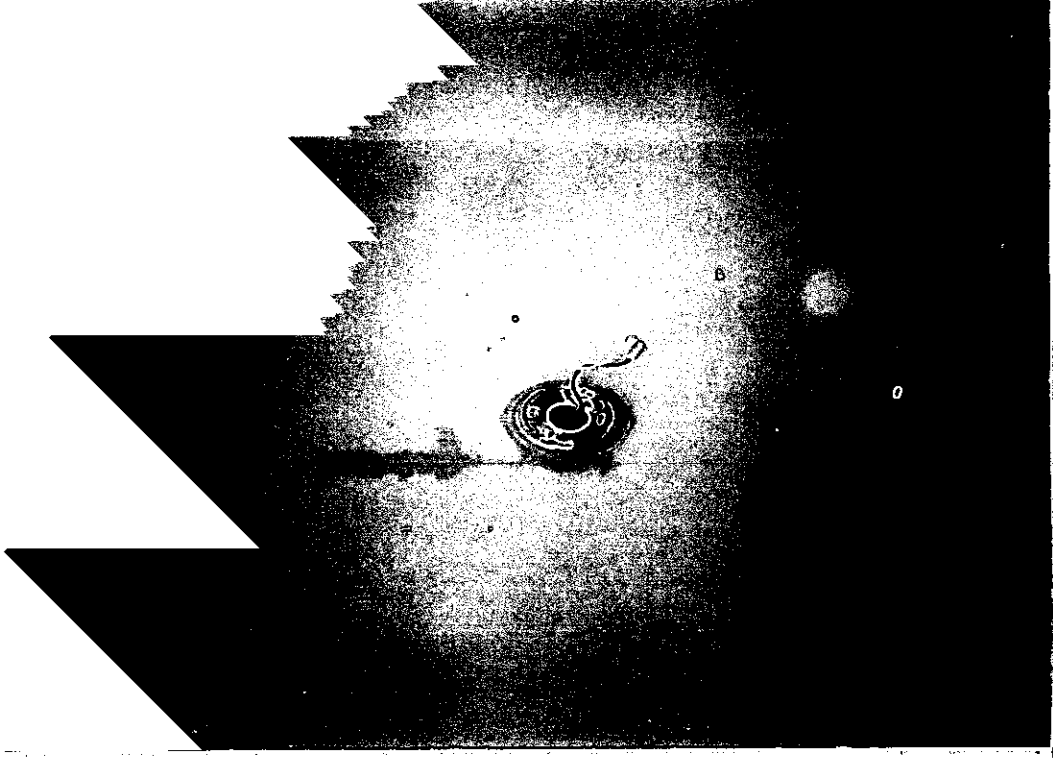
Passage of this proposed legislation will give landlords the opportunity to post notices (similar to what we see in many retail establishments regarding shoplifting) that tampering with smoke detectors is a crime and will be prosecuted. This is already evident in airlines with regards to smoking in the lavatory.

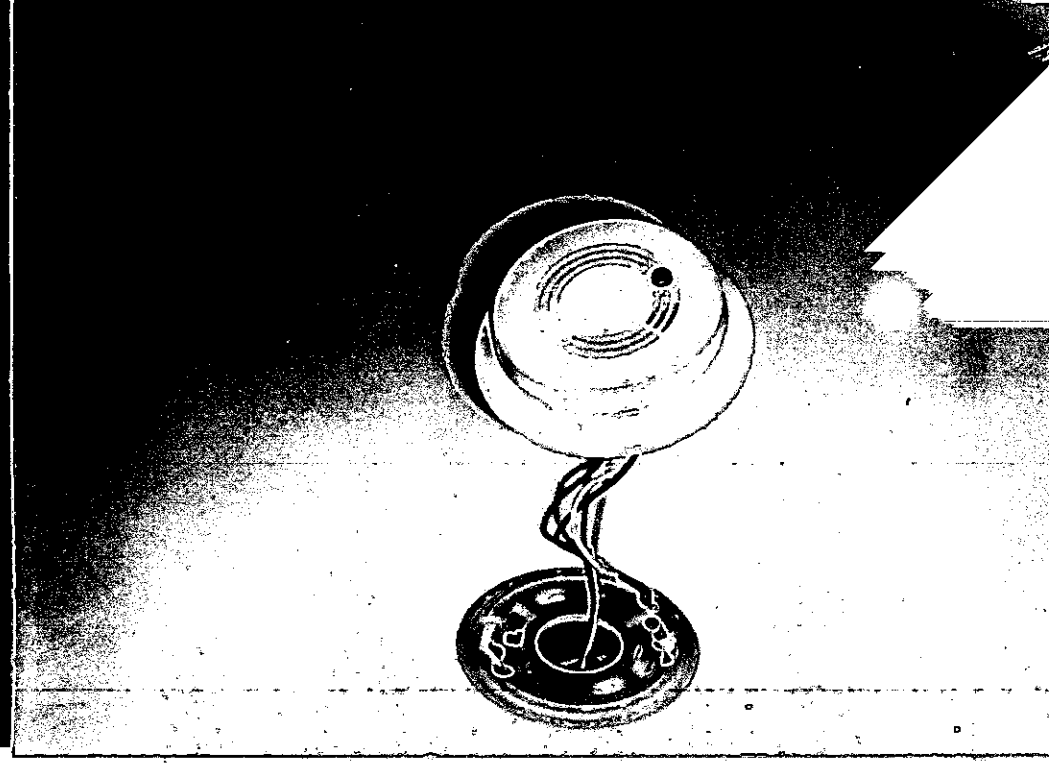
Do I in reality think there will be a lot of criminal charges brought? No, but if a tenant is habitually disconnecting this would give the landlord the opportunity to evict them because of breaking the law and/or bring a charge.

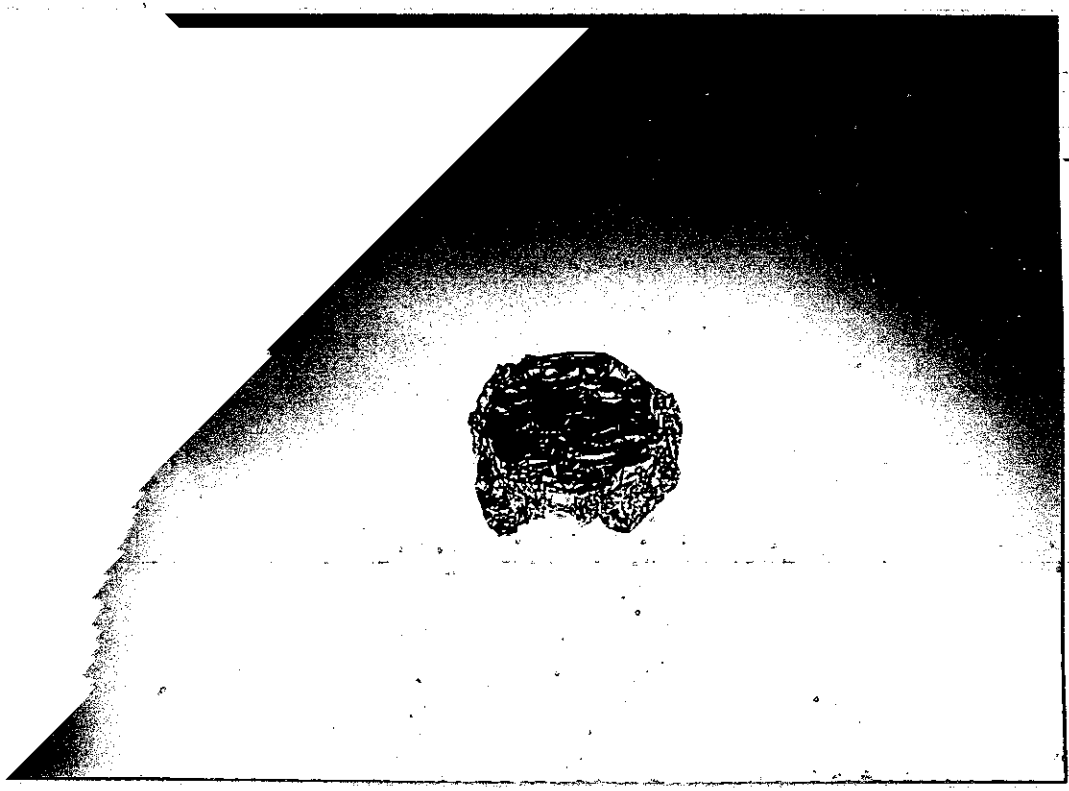
The Judicial Branch speaks to the issue that this might increase the demand for indigent defense. I ask you what is the cost of having a child in an unsafe environment that is beyond the control of the landlord? What about the other tenants in the buildings that don't have the financial ability to move? Isn't it reasonable to give the landlord an additional tool to maintain that safety?

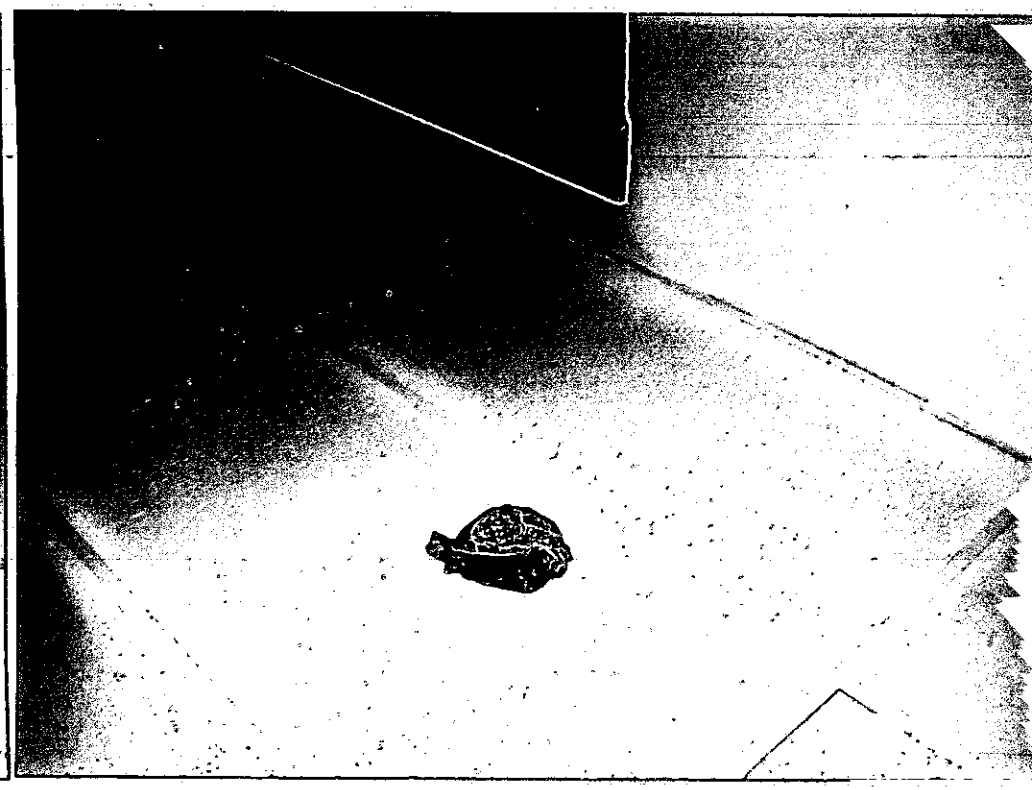
Because of this, I ask you to vote in favor of this legislation. I thank you for your time

Sharon Guaraldi
21 Bank Street; Lebanon, NH
(603) 448-3250









Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 654-FN

BILL TITLE: **relative to criminal liability for the destruction or disconnection of a smoke detector by a tenant in a rental dwelling.**

DATE: March 18, 2003

LOB ROOM: 204

Amendments:

Sponsor: Rep. Bicknell — OLS Document #: 2003 0654h

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

Motions: (OTP) OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Bicknell — AMENDMENT ONLY

Seconded by Rep. Jones

Vote: 12-0 (Please attach record of roll call vote.)

Motions: OTP, (OTP/A), ITL, Interim Study (Please circle one.)

Moved by Rep. Bicknell

Seconded by Rep. Jones

Vote: 12-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 12-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stanley E. Stevens, Clerk

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB654 **Title:** _____

PH Date: 1/1/ **Exec Session Date:** 1/8/03

Motion: AMEND **Amendment #:** 2003-0654h

MEMBER	YEAS	NAYS
Welch. David A. Chairman	✓	
Tholl. John E. V Chairman	✓	
Fesh. Bob M		
Jones. Constance A	✓	
Kennedy. Richard E		
Gilbert. Karl I		
Nedeau. Stephen H	✓	
Stevens. Stanley E	✓	
Weare. E Albert	✓	
Bemis. Alan B		
Bicknell. Elbert I	✓	
Fish. Douglas K		
Oliver. James H	✓	
Smith. Donald C	✓	
Winchell. George D		
Knowles. William V	✓	
Berube. Roger R		
Callaghan. Frank D	✓	
Movsesian. Lori A		
Pantelakos. Laura C		
Robertson. Timothy N	✓	
	12	0

TOTAL VOTE:
Printed: 1/6/2003

Bill #: HB 654 **Title:**

PH Date: 1 / 1 **Exec Session Date:** 3 / 18 / 03

Motion: OTP/A **Amendment #:**

MEMBER	YEAS	NAYS
Welch. David A. Chairman	✓	
Tholl. John E. V Chairman	✓	
Fesh. Bob M		
Jones. Constance A	✓	
Kennedy. Richard E		
Gilbert. Karl I		
Nedeau. Stephen H	✓	
Stevens. Stanley E	✓	
Weare. E Albert	✓	
Bemis. Alan B		
Bicknell. Elbert I	✓	
Fish. Douglas K		
Oliver. James H	✓	
Smith. Donald C	✓	
Winchell. George D		
Knowles. William V	✓	
Berube. Roger R		
Callaghan. Frank D	✓	
Movsesian. Lori A		
Pantelakos. Laura C		
Robertson. Timothy N	✓	
	12	0
TOTAL VOTE:		

Printed: 1/6/2003

Committee Report

COMMITTEE REPORT

COMMITTEE: **Criminal Justice and Public Safety**

BILL NUMBER: **HB 654-FN**

TITLE: relative to criminal liability for the destruction or disconnection of a smoke detector by a tenant in a rental dwelling.

DATE: March 18, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

HB 654 brought out some very strong concerns. Most at the public hearing came forward for the same reason: tenants and/or guests of the tenants were rendering useless a fire protection device that could in most cases save lives. They were either destroying or disconnecting or in some other way making inoperable smoke detectors in the rental properties. This bill addresses that and it makes it a misdemeanor and holds the tenant or his guest criminally liable for such an act. Those from rental management companies to the individual renter and the state's Fire Marshall all concurred the need for this bill, so did the committee with a 12-0 vote.

Vote 12-0.

Rep. Elbert I. Bicknell
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Criminal Justice and Public Safety

HB 654-FN, relative to criminal liability for the destruction or disconnection of a smoke detector by a tenant in a rental dwelling. **OUGHT TO PASS WITH AMENDMENT**

Rep. Elbert I. Bicknell for Criminal Justice and Public Safety: HB 654 brought out some very strong concerns. Most at the public hearing came forward for the same reason: tenants and/or guests of the tenants were rendering useless a fire protection device that could in most cases save lives. They were either destroying or disconnecting or in some other way making inoperable smoke detectors in the rental properties. This bill addresses that and it makes it a misdemeanor and holds the tenant or his guest criminally liable for such an act. Those from rental management companies to the individual renter and the state's Fire Marshall all concurred the need for this bill, so did the committee with a 12-0 vote **Vote 12-0.**