

SENATE BILL REPORT

2ESB 6001

As Passed Senate, January 30, 2002

Title: An act relating to inspections of tenant dwelling units by fire department officials for fire code violations.

Brief Description: Authorizing inspections of tenant dwelling units for fire code violations.

Sponsors: Senators Carlson and Winsley.

Brief History:

Committee Activity: Judiciary: 2/26/01 [DP].

Passed Senate: 3/12/01, 29-20; 1/30/02, 47-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Hargrove, Johnson, Kastama and McCaslin.

Staff: Lisa Ellis (786-7421)

Background: There is currently no civil authority for a fire department official to enter any building to inspect for fire code violations. The chief of the Washington State Patrol, through the director of fire protection, is given authority to enter any building other than a private dwelling to inspect for fire hazards. However, if entry is denied, the director of fire protection is given no statutory authority to enforce the right to enter by obtaining a civil court order for inspection.

The United States Supreme Court has ruled that Washington courts are without authority to issue warrants allowing civil inspection for fire code violations because no statute or court rule provides that authority. A specific authorizing statute is necessary. Fire department officials are concerned that they are not able to inspect dwelling units in an apartment building even when they have reason to believe that dangerous conditions exist in the unit. Conditions which constitute a fire danger are especially hazardous in multi-unit apartment buildings since a fire in one unit constitutes a serious risk to all occupants of the building.

Summary of Bill: Fire officials may immediately seek a search warrant if tenants or landlords deny the fire official the right to search dwelling units and common areas. A court must issue a search warrant if it finds that there is probable cause, specific to the dwelling unit or common area, of a criminal fire code violation. Evidence obtained during a fire inspection may be used in a civil or enforcement action.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Fire inspectors need to enter rental dwelling units when necessary to remedy safety violations which constitute a fire hazard. They currently do not have this authority unless criminal statutes are used. A recent fire, with a fatality, in a multi-unit apartment in Vancouver was caused by a tenant's hoarding of stacks of newspapers which caught fire. This could have been prevented if fire officials had the authority to enter and inspect if they had learned of hazardous conditions in the apartment.

Testimony Against: Apartment owners conduct yearly inspections which reveal these fire hazards. Inspection provisions violate a tenant's privacy rights. Landlords have the authority to enter in an emergency, and would allow fire officials to enter under existing authority.

Testified: Senator Don Carlson (pro); Mark Brown, City of Vancouver Public Affairs and Governmental Relations (pro w/changes); David Lynam, State Fire Marshall's Assn. (pro w/changes); Dave Sauerbrey, Vancouver Fire Dept. (pro w/changes); Doug Neyhart, Wash. Apt. Assn. & Apt. Assn. of Seattle & King Co. (con); John Woodring, Wash. Apt. Assn. & Apt. Assn. of Seattle & King Co. (con).

House Amendment(s): Grammar revisions are made to enhance readability.