

2013 -- H 5244

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING HEALTH AND SAFETY -- AIR POLLUTION

Introduced By: Representatives Handy, Cimini, Lombardi, Gallison, and Almeida

Date Introduced: February 05, 2013

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 23-23 of the General Laws entitled "Air Pollution" is hereby
2 amended by adding thereto the following sections:

3 **23-23-30.1. Findings of fact. -- The general assembly hereby finds as follows:**

4 (1) In 1988 the United States Environmental Protection Agency (EPA) adopted
5 regulations requiring that wood burning stoves manufactured on or after July 1, 1988 be certified
6 by the EPA to meet Phase I emission limits, and further requiring that all wood burning stoves
7 produced on or after July 1, 1990 meet more stringent Phase II emission limits.

8 (2) Wood burning stoves emit smoke that is hazardous to human health. Studies have
9 linked pollution from wood smoke to increased rates of cancer, lung and heart disease, asthma
10 and allergies.

11 (3) EPA certified wood stoves emit seventy percent (70%) to ninety percent (90%) less
12 particulate matter (smoke) than older model non-certified wood stoves.

13 (4) Older model wood burning stoves that are not EPA certified emit smoke to a degree
14 that interferes with the enjoyment and quality of life in densely populated residential areas.

15 (5) EPA certified wood stoves are identifiable by a temporary label that indicates EPA
16 certification, efficiency, heat output, and particulate emissions, and a permanent label that
17 indicates EPA certification and the date of manufacture.

18 **23-23-30.2. Definitions. -- As used in sections 23-23-30.1 through 23-23-30.7, the**
19 following terms shall be construed as follows:

1 (1) “Certified wood stove” means a wood stove which has been certified by the United
2 States Environmental Protection Agency to meet the Phase II emission limits for wood stoves
3 manufactured on or after July 1, 1990, and to which a valid certification label has been affixed.

4 (2) “Clean wood” means natural wood that has not been painted, stained, coated,
5 preserved or treated with a chemical or synthetic substance, including, but not limited to, copper
6 chromium arsenate, creosote, or pentachlorophenol. “Clean wood” does not include driftwood
7 and does not include construction or demolition debris as defined in subdivision 23-18.9-7(4).
8 “Clean wood” does not include wood that contains glue or resins as in plywood or other
9 composite wood products.

10 (3) "Fireplace" means any permanently installed masonry fireplace or any factory-built
11 metal wood burning device designed to be used as an open combustion chamber without features
12 to control the air to fuel ratio.

13 (4) “Residential area” means any area where a single unit or multiple unit dwellings exist,
14 including nursing homes, assisted living facilities, and public housing.

15 (5) “Residential dwelling” includes private dwellings of one or more units, nursing
16 homes, assisted living facilities, and public housing.

17 (6) “Use” shall include the maintenance of a wood stove in an operable condition,
18 connected to a chimney, stack, or flue, regardless of whether or not fuel is burned.

19 (7) “Wood” means all types of wood and wood products, including firewood, boards and
20 wood pellets.

21 (8) “Wood stove” means any device, other than a fireplace, designed or intended by the
22 manufacturer to burn wood inside a private residence which has a firebox volume less than
23 twenty (20) cubic feet and weighs less than eight hundred (800) kilograms. “Wood stove” shall
24 not include any heating device manufactured after July 1, 1990 that is specifically designed to
25 burn wood pellet fuel with metered fuel and air feed, controlled combustion engineering, and that
26 burns only wood pellet fuel.

27 **23-23-30.3. Phase-out of wood stoves without EPA certification in densely populated**
28 **residential areas. -- (a) No wood stove shall be installed without having first obtained all**
29 **required permits, including all permits as may be required under the Rhode Island State Building**
30 **Code, under the Rhode Island Fire Safety Code, and under local ordinances and regulations.**

31 (b) On or after January 1, 2014 no permit may be issued for the installation of and no
32 person shall install or allow the installation of a wood stove that is not a certified wood stove in
33 any residential dwelling or in any garage or structure ancillary thereto unless the chimney, stack,
34 or flue through which the products of combustion pass is at least:

1 (1) Fifty feet (50') from any lot line; and
2 (2) Two hundred feet (200') from a residential dwelling of an abutting owner.

3 (c) No person shall operate, use, or allow the operation or use of a wood stove that has
4 been installed in violation of this section.

5 (d) On or after January 1, 2014, no property owner shall sell, rent, or lease or offer to sell,
6 rent or lease any residential dwelling or any garage or structure ancillary thereto in which a wood
7 stove other than a certified wood stove is installed unless the chimney, stack, or flue through
8 which the products of combustion pass is at least:

9 (1) Fifty feet (50') from any lot line; and

10 (2) Two hundred feet (200') from a residential dwelling of an abutting owner.

11 **23-23-30.4. Limitations on allowable fuels.** -- No person shall cause or allow any
12 material to be burned in a wood stove except:

13 (1) Clean wood;

14 (2) Wood pellets made from clean wood;

15 (3) Manufactured logs recommended by the manufacturer for burning in a wood stove;

16 (4) Any other fuel approved by the director of the department of environmental
17 management pursuant to duly-promulgated regulations.

18 **23-23-30.5. Penalties.** -- Any person violating sections 23-23-30.3 or 23-23-30.4 of this
19 chapter shall be subject to a fine not to exceed two hundred dollars (\$200) for each violation.
20 Each day during which a violation occurs or continues shall constitute a separate violation.

21 **23-23-30.6. Enforcement.** -- (a) The responsibility for the enforcement of sections 23-
22 23-30.1 through 23-23-30.4 of this chapter shall be with the local municipal building inspector or
23 such other local building official as a municipality may designate by ordinance.

24 (b) The local fire authority that performs smoke detector and carbon monoxide detector
25 inspections in residential dwellings shall, at the time of inspection, also inspect any wood stove
26 for an EPA certification label. The local fire authority observing any violation of sections 23-23-
27 30.3. or 23-23-30.4 of this chapter shall issue a notice of violation to the homeowner and send a
28 copy to the local building inspector or duly designated local building official. The homeowner
29 shall inform any prospective purchaser of the violation prior to a closing by delivering a copy of
30 the violation notice to the prospective purchaser.

31 (c) The local building inspector or duly designated local building official shall, in
32 response to a complaint or upon receipt of a notice of violation from the aforesaid local fire
33 authority, investigate the complaint or the violation notice. The local building inspector or duly
34 designated local building official shall serve a citation upon any person believed to be in violation

1 of section 23-23-30.3 or 23-23-30.4 of this chapter. The citation shall describe the violation and
2 shall direct the discontinuance or abatement of the violation. The citation shall be in writing and
3 shall be served by regular mail and certified mail, or by posting a copy of the citation in a
4 conspicuous place on or about the premises in violation. If the violation is not corrected within
5 thirty (30) days after service, the local building inspector or duly designated local building
6 official may ask legal counsel of the municipality to institute appropriate proceedings in a court
7 of competent jurisdiction, including municipal courts, to enforce the provisions of this chapter.

8 **23-23-30.7. Common law rights preserved. --** The operation or use of a wood stove in
9 any manner that creates a nuisance or interferes with the health, safety, or welfare of any person
10 is prohibited. All public or private rights of action in nuisance, negligence, or otherwise are
11 preserved.

12 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING HEALTH AND SAFETY -- AIR POLLUTION

- 1 This act would regulate the phase-out of wood stoves without EPA certification in
- 2 densely populated residential areas.
- 3 This act would take effect upon passage.

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