

2010 -- H 7064

LC00064

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO HEALTH AND SAFETY - OUTDOOR WOOD-FIRED HYDRONIC HEATERS

Introduced By: Representatives Gallison, Gablinske, McNamara, Malik, and Handy

Date Introduced: January 12, 2010

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 23.7

4 OUTDOOR WOOD-FIRED HYDRONIC HEATERS

5 **23-23.7-1. Purpose.** -- The general assembly hereby finds and declares that outdoor
6 wood-fired hydronic heaters, also known as outdoor wood-burning boilers or outdoor wood
7 boilers, are a recognized source of air pollution. Unregulated emissions from outdoor wood
8 heaters are known to have adverse health effects on the heart and lungs. The purpose of this
9 chapter is to protect the public health, safety and welfare by reducing air pollution caused by
10 outdoor wood-fired hydronic heaters.

11 **23-23.7-2. Definitions.** -- The following words when used in this chapter shall have the
12 following meaning:

13 (1) "Clean wood" means wood that has not been painted, stained, coated, preserved, or
14 treated with chemicals, including, but not limited to, copper chromium arsenate, creosote, and
15 pentachlorophenol.

16 (2) "Director" means the director of the department of environmental management.

17 (3) "Outdoor wood-fired hydronic heater" means a device:

18 (i) designed to burn wood or other solid fuels;

1 (ii) That the manufacturer specifies for outdoor installation or in structures not normally
2 occupied by humans; and

3 (iii) That heats building space and/or water through distribution through pipes of a fluid,
4 typically water or a mixture of water and antifreeze, heated by the device.

5 (4) "Phase II outdoor wood-fired hydronic heater" means an outdoor wood-fired hydronic
6 heater that has been certified or qualified by the U.S. Environment Protection Agency (EPA) as
7 meeting a particulate matter emission limit of 0.32 pounds per million British Thermal Units
8 (BTUs) output and is labeled accordingly, and does not on any individual test run exceed fifteen
9 (15) grams per hour within each of the test rate categories.

10 **23-23.7-3. Seasonal prohibition and nuisance conditions.** -- (a) No person shall operate
11 an outdoor wood-fired hydronic heater between the first (1st) day of April and the fifteenth (15th)
12 day of October, both inclusive, in any year.

13 (b) No person shall cause or allow emissions of air contaminants to the outdoor
14 atmosphere of such quantity, characteristic or duration that are injurious to human, plant or
15 animal life or to property, or that unreasonably interfere with the comfortable enjoyment of life or
16 property. Notwithstanding the existence of specific air quality standards or emission limits, this
17 prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor,
18 toxic, or deleterious emission, either alone or in combination with others.

19 **23-23.7-4. Installations prohibited.** -- (a) Effective July 1, 2010, no person shall install
20 an outdoor wood-fired hydronic heater that does not comply with the emission standards as
21 defined in this chapter.

22 **23-23.7-5. Manner of installation.** -- (a) Effective July 1, 2010, no person shall install a
23 Phase II outdoor wood-fired hydronic heater unless it is installed at least one hundred feet (100')
24 from the nearest property line and has a permanent attached stack that is at least two feet (2')
25 higher than the peak of the roof of the building served by the outdoor wood-fired hydronic heater
26 and the peak of the roof of every other building within three hundred feet (300') of the outdoor
27 wood-fired hydronic heater.

28 (b) Only persons registered with the contractors registration board and licensed to install
29 an outdoor wood-fired hydronic heater may install an outdoor wood-fired hydronic heater.

30 (c) No outdoor wood-fired hydronic heater may be used as a primary heat source for any
31 residence and/or commercial structure.

32 (d) All existing and installed outdoor wood-fired hydronic heaters that do not meet the
33 emission standards as set forth above and shall have a set back of five hundred feet (500') from
34 any property line along with a stack height of two feet (2') above the peak of the nearest

1 structure.

2 (e) A written application shall be submitted to the municipal building official before a
3 building permit is issued. The application must show compliance with all applicable state and
4 local building codes and local zoning ordinances, and must include a site plan prepared by a
5 licensed land surveyor or professional engineer showing both the vertical and horizontal control
6 measurements required by this chapter, indicating proposed boiler location in relation to all
7 buildings on site and all neighboring residences on all abutting properties showing their structures
8 and swimming pools together with distances to all roads adjacent to the proposed site, and
9 distances from the boiler to woods, brush, and flammable structures. The plan must include the
10 prevailing wind direction.

11 **23-23.7-6. Permitted fuels.** -- (a) No fuel except the following shall be burned in a
12 outdoor wood-fired hydronic heater:

13 (1) Clean wood;

14 (2) Wood pellets made from clean wood;

15 (3) Home heating oil, natural gas, or propane that complies with all applicable sulfur
16 limits and is used as a starter or supplemental fuel for a dual-fired outdoor wood-fired hydronic
17 heater;

18 (4) Any other fuel approved by the director pursuant to duly-promulgated regulations.

19 (b) Outdoor wood-fired hydronic heaters specifically designed to burn wood pellet fuel
20 with metered fuel and air feed and controlled combustion engineering that are operated according
21 to manufacturer's specifications and that burn only wood pellet fuel shall be exempt from the
22 provisions of this chapter 23-23.7.

23 **23-23.7-7. Municipal ordinances.** -- (a) Cities and towns shall have the authority to
24 enact and enforce ordinances that prohibit the installation or use of outdoor wood-fired hydronic
25 heaters in one or more zoning districts. Such ordinances may incorporate, by reference, the city or
26 town zoning map adopted pursuant to title 45, chapter 24. Such ordinances may establish setbacks
27 and stack heights that are more restrictive than those established by this chapter.

28 (b) Cities and towns shall not have the authority to establish quantifiable emission limits,
29 require testing, monitoring, or certification, or specify the types of fuels used; provided, that cities
30 and towns may enact and enforce ordinances that address the use of permitted and/or prohibited
31 fuels in a manner consistent with the provisions of this chapter 23-23.7.

32 (c) The provisions of this chapter shall be considered minimum provisions.

33 **23-23.7-8. Local enforcement.** -- (a) The local building official shall administer and
34 enforce sections 23-23.7-3 through 23-23.7-7 of this chapter or any municipal ordinance enacted

1 pursuant to this chapter.

2 (b) The building official shall serve a notice of violation on the person responsible for the
3 installation or use of an outdoor wood-fired hydronic heater in violation of sections 23-23.7-1
4 through 23-23.7-7 of this chapter or any municipal ordinance enacted pursuant to this chapter.
5 The notice shall describe the violation and shall direct the discontinuance or abatement of the
6 violation. The notice shall be in writing and shall be served by regular mail and certified mail, or
7 by posting a copy of the notice in a conspicuous place on or about the premises in violation.

8 (c) If the violation is not corrected within thirty (30) days after service, the building
9 official may ask legal counsel of the municipality to institute the appropriate proceeding at law or
10 in equity in a court of competent jurisdiction, including municipal courts, to restrain, correct, or
11 abate the violation or to require the removal of the outdoor wood-fired hydronic heater.

12 (d) Violations shall be punished by a fine of not more than five hundred dollars (\$500)
13 for each violation. Each day during which any portion of a violation continues shall constitute a
14 separate offense. The imposition of a fine shall not preclude the building official from instituting
15 appropriate action to prevent unlawful installation or use of an outdoor wood-fired hydronic
16 heater.

17 **23-23.7-9. Notice to buyers.** -- (a) The distributor or seller of every new or used outdoor
18 wood-fired hydronic heater shall provide each prospective buyer with a copy of this chapter and a
19 notice containing the following:

- 20 (1) An acknowledgment that the buyer was provided with a copy of title 23, chapter 23.7;
21 (2) A list of permitted and, if applicable prohibited fuels; and
22 (3) A statement that the municipality where the outdoor wood-fired hydronic heater will
23 be installed may impose more stringent limitations on installation than those contained in this
24 chapter.

25 (b) The buyer and the seller or distributor shall sign and date the notice when the sale is
26 completed. The name and address of the buyer, name of the manufacturer, and model and date of
27 manufacture of the outdoor wood-fired hydronic heater shall be included in the completed notice.

28 (c) The distributor or seller shall keep on file a copy of each signed notice for at least
29 three (3) years from the date of sale. The distributor or seller shall make each notice available for
30 inspection or copying by the municipal official responsible for administration of this chapter or
31 his or her designee, or by the director or his or her designee.

32 **23-23.7-10. State enforcement.** -- (a) The director or his or her designee shall
33 promulgate regulations to administer and enforce sections 23-23.7-9 of this chapter.

34

1 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 TO HEALTH AND SAFETY - OUTDOOR WOOD-FIRED HYDRONIC
HEATERS

- 1 This act would regulate the sale and installation of outdoor wood-fired hydronic heaters.
- 2 This act would take effect upon passage.

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