

2016 -- H 7703

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO HEALTH AND SAFETY -- AIR POLLUTION

Introduced By: Representatives Handy, Maldonado, Ajello, Naughton, and Kazarian

Date Introduced: February 24, 2016

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 **23-23-32. Findings. --** 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) Wood stoves certified to meet EPA Phase II emissions standards emit seventy percent
12 (70%) to ninety percent (90%) less particulate matter (smoke) than older model non-certified
13 wood stoves.

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

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

19 **23-23-32.1. Definitions. --** As used in §§23-23-32 through 23-23-32.7, the following

1 terms shall be construed as follows:

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

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

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

14 (4) "Residential dwelling" includes private dwellings of one or more units, nursing
15 homes, assisted living facilities, and public housing .

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

18 (6) "Wood" means all types of wood and wood products, including firewood, boards and
19 wood pellets.

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

26 **23-23-32.2. Phase-out of wood stoves without EPA certification in densely populated**
27 **residential areas. --** (a) No wood stove shall be installed without having first obtained all
28 required permits, including all permits as may be required under the Rhode Island state building
29 code, under the Rhode Island fire safety code, and under local ordinances and regulations.

30 (b) On or after January 1, 2017, no permit may be issued for the installation of, and no
31 person shall install or allow the installation of, any wood stove that is not a certified wood stove
32 in any residential dwelling or in any garage or other structure ancillary to the residential dwelling
33 unless the chimney, stack, or flue through which the products of combustion pass is at least:

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

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

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

4 (d) On or after January 1, 2017, no property owner shall sell or offer to sell any
5 residential dwelling in which a wood stove other than a certified wood stove is installed in the
6 residential dwelling or in any garage or other structure ancillary to the residential dwelling unless
7 the chimney, stack, or flue through which the products of combustion pass is at least:

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

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

10 **23-23-32.3. Limitations on allowable fuels.** -- No person shall cause or allow any
11 material to be burned in a wood stove in a residential dwelling or in a garage or other structure
12 ancillary to a residential dwelling 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 **23-23-32.4. Exemption for ancillary structures on commercial farms.** -- Wood stoves
19 used in a residential dwelling or in a garage or other structure ancillary to a residential dwelling
20 located on farms engaged in commercial farming as defined in §44-18-30 shall be exempt from
21 the provisions of §§23-23-32.2 and 23-23-32.3.

22 **23-23-32.5. Penalties.** -- Except as provided in §23-23-32.4, any person violating §§23-
23 23-32.2 or 23-23-32.3 of this chapter shall be subject to a fine not to exceed two hundred dollars
24 (\$200) for each violation. Each day during which a violation occurs or continues shall constitute a
25 separate violation.

26 **23-23-32.6. Enforcement.** -- (a) The responsibility for the enforcement of §§23-23-32
27 through 23-23-32.3 shall be with the local municipal building inspector or such other local
28 building official as a municipality may designate by ordinance.

29 (b) The local fire authority that performs smoke detector and carbon monoxide detector
30 inspections in residential dwellings shall, at the time of inspection, also inspect any wood stove
31 for an EPA certification label. The local fire authority observing any violation of §23-23-32.2
32 shall issue a notice of violation to the homeowner and send a copy to the local building inspector
33 or duly designated local building official. The homeowner shall inform any prospective purchaser
34 of the violation prior to a closing by delivering a copy of the violation notice to the prospective

1 purchaser.

2 (c) The local building inspector or duly designated local building official shall, in
3 response to a complaint or upon receipt of a notice of violation from the aforesaid local fire
4 authority, investigate the complaint or the violation notice. The local building inspector or duly
5 designated local building official shall serve a citation upon any person believed to be in violation
6 of §§23-23-32.2 or 23-23-32.3. The citation shall describe the violation and shall direct the
7 discontinuance or abatement of the violation. The citation shall be in writing and shall be served
8 by regular mail and certified mail, or by posting a copy of the citation in a conspicuous place on
9 or about the premises in violation. If the violation is not corrected within thirty (30) days after
10 service, the local building inspector or duly designated local building official may request that
11 legal counsel for the municipality institute appropriate proceedings in a court of competent
12 jurisdiction, including municipal courts, to enforce the provisions of this chapter.

13 **23-23-32.7. Common law rights preserved. --** The operation or use of a wood stove in
14 any manner that creates a nuisance or interferes with the health, safety, or welfare of any person
15 is prohibited. All public or private rights of action in nuisance, negligence, or otherwise are
16 preserved.

17 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 -- 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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