

2010 -- S 2438

LC01869

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: Senators Blais, Maher, and Raptakis

Date Introduced: February 11, 2010

Referred To: Senate Environment & Agriculture

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 cause
11 or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic
12 or duration that are injurious to human, plant or animal life or to property, or that unreasonably
13 interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of
14 specific air quality standards or emission limits, this prohibition applies, but is not limited to, any
15 particulate, fume, gas, mist, odor, smoke, vapor, toxic, or deleterious emission, either alone or in
16 combination with others.

17 **23-23.7-4. Installations prohibited.** -- (a) Effective July 1, 2010, no person shall input,
18 supply, distribute or sell, install or allow the installation of an outdoor wood-fired hydronic heater
19 that does not comply with the emissions standard for Phase II outdoor wood-fired hydronic heater
20 as defined in this chapter.

21 **23-23.7-5. Manner of installation.** -- (a) Effective July 1, 2010, no Phase II outdoor
22 wood-fired hydronic heater shall be installed by a party other than a person registered with the
23 contractors registration board and licensed to install an outdoor wood-fired hydronic heater may
24 install an outdoor wood-fired hydronic heater.

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

34 **23-23.7-6. Permitted fuels.** -- (a) No fuel except the following shall be burned in a

1 outdoor wood-fired hydronic heater:

2 (1) Clean wood;

3 (2) Wood pellets made from clean wood;

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

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

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

12 **23-23.7-7. Municipal ordinances.** -- (a) Cities and towns shall have the authority to
13 enact and enforce ordinances that prohibit the installation or use of outdoor wood-fired hydronic
14 heaters in one or more zoning districts. Such ordinances may incorporate, by reference, the city or
15 town zoning map adopted pursuant to title 45, chapter 24. Such ordinances may establish setbacks
16 and stack heights that are more restrictive than those established by this chapter.

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

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

22 (d) The broad discretion vested in the municipalities to prohibit outdoor wood-fired
23 hydronic heaters pursuant to subsection 23-23.7-7(a) shall not be interpreted in a manner that
24 would permit the adoption and enforcement of municipal ordinances that would interfere with
25 recognized agricultural operations that are currently protected pursuant to subsection 2-23-4(a) of
26 the Right to Farm Act.

27 **23-23.7-8. Local enforcement.** -- (a) The local building official shall administer and
28 enforce sections 23-23.7-3 through 23-23.7-7 of this chapter or any municipal ordinance enacted
29 pursuant to this chapter.

30 (b) The building official shall serve a notice of violation on the person responsible for the
31 installation or use of an outdoor wood-fired hydronic heater in violation of sections 23-23.7-1
32 through 23-23.7-7 of this chapter or any municipal ordinance enacted pursuant to this chapter.
33 The notice shall describe the violation and shall direct the discontinuance or abatement of the
34 violation. The notice shall be in writing and shall be served by regular mail and certified mail, or

1 by posting a copy of the notice in a conspicuous place on or about the premises in violation.

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

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

11 **23-23.7-9. Notice to buyers.** -- (a) The distributor or seller of every new or used outdoor
12 wood-fired hydronic heater shall provide each prospective buyer with a copy of this chapter and a
13 notice containing the following:

14 (1) An acknowledgment that the buyer was provided with a copy of title 23, chapter 23.7;

15 (2) A list of permitted and, if applicable prohibited fuels; and

16 (3) A statement that the municipality where the outdoor wood-fired hydronic heater will
17 be installed may impose more stringent limitations on installation than those contained in this
18 chapter.

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

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

26 **23-23.7-10. State enforcement.** -- (a) The director or his or her designee shall
27 promulgate regulations to administer and enforce sections 23-23.7-9 of this chapter.

28 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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