

2018 -- H 7380

LC004003

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO HEALTH AND SAFETY -- AIR POLLUTION

Introduced By: Representatives Handy, Donovan, Ajello, Blazejewski, and Amore

Date Introduced: January 31, 2018

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.**

4 The general assembly hereby finds as follows:

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

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

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

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

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

1 **23-23-32.1. Definitions.**

2 As used in §§ 23-23-32 through 23-23-32.7, the following terms shall be construed as
3 follows:

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

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

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

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

18 (5) "Use" means and includes the maintenance of a wood stove in an operable condition,
19 connected to a chimney, stack, or flue, regardless of whether or not fuel is burned.

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

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

28 **23-23-32.2. Phase-out of wood stoves without EPA certification in densely populated**
29 **residential areas.**

30 (a) No wood stove shall be installed without having first obtained all required permits,
31 including all permits as may be required under the Rhode Island state building code, under the
32 Rhode Island fire safety code, and under local ordinances and regulations.

33 (b) On or after January 1, 2019, no permit may be issued for the installation of, and no
34 person shall install or allow the installation of, any wood stove that is not a certified wood stove

1 in any residential dwelling or in any garage or other structure ancillary to the residential dwelling
2 unless the chimney, stack, or flue through which the products of combustion pass is at least:

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

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

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

7 (d) On or after January 1, 2019, no property owner shall sell or offer to sell any
8 residential dwelling in which a wood stove other than a certified wood stove is installed in the
9 residential dwelling or in any garage or other structure ancillary to the residential dwelling unless
10 the chimney, stack, or flue through which the products of combustion pass is at least:

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

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

13 **23-23-32.3. Limitations on allowable fuels.**

14 No person shall cause or allow any material to be burned in a wood stove in a residential
15 dwelling or in a garage or other structure ancillary to a residential dwelling except:

16 (1) Clean wood;

17 (2) Wood pellets made from clean wood;

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

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

21 **23-23-32.4. Exemption for ancillary structures on commercial farms.**

22 Wood stoves used in a garage or other structure ancillary to a residential dwelling located
23 on farms engaged in commercial farming as defined in § 44-18-30 shall be exempt from the
24 provisions of §§ 23-23-32.2 and 23-23-32.3.

25 **23-23-32.5. Penalties.**

26 Except as provided in § 23-23-32.4, any person violating §§ 23-23-32.2 or 23-23-32.3 of
27 this chapter shall be subject to a fine not to exceed two hundred dollars (\$200) for each violation.

28 Each day during which a violation occurs or continues shall constitute a separate violation.

29 **23-23-32.6. Enforcement.**

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

33 (b) The local fire authority that performs smoke detector and carbon monoxide detector
34 inspections in residential dwellings shall, at the time of inspection, also inspect any wood stove

1 for an EPA certification label. The local fire authority observing any violation of § 23-23-32.2
2 shall issue a notice of violation to the homeowner and send a copy to the local building inspector
3 or duly designated local building official. The homeowner shall inform any prospective purchaser
4 of the violation prior to a closing by delivering a copy of the violation notice to the prospective
5 purchaser.

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

17 **23-23-32.7. Common law rights preserved.**

18 All public or private rights of action in nuisance, negligence, or otherwise are preserved.

19 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 and would require material burned in wood stoves to be clean
3 wood or other approved material.

4 This act would take effect upon passage.

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