

**2012 -- H 7633 SUBSTITUTE A**

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LC00867/SUB A  
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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2012**

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A N A C T

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

Introduced By: Representatives Flaherty, Chippendale, McNamara, Ruggiero, and Handy

Date Introduced: February 16, 2012

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 may be recognized as a source of air pollution. Emissions from outdoor wood heaters that  
8 are a result of improper use or maintenance may have adverse health effects. The purpose of this  
9 chapter is to protect the public health, safety and welfare while maintaining homeowners' rights  
10 to choose to heat their homes with a safe, economical, and ecologically plentiful fuel source.

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. This definition does not include construction or demolition debris as defined  
16 in subdivision 23-18.9-7(4).

17 (2) "DEM Director" means the director of the department of environmental management  
18 or designee.

1 (3) “DOH Director” means the director of the department of health, or designee.

2 (4) “EPA” means the United States Environmental Protection Agency.

3 (5) “Municipality” means a city or town. Municipality shall not mean village, or fire  
4 district.

5 (6) “Nuisance” means the use of any outdoor wood-fired hydronic heater in a manner that  
6 violates “Air Pollution Control Regulation No. 48” promulgated by the Rhode Island department  
7 of environmental management on April 14, 2011.

8 (7) “Grandfathered” means any devices that have been installed prior to July 1, 2012. So-  
9 called “Grandfathered” units are not exempt from section 23-23.7-3 and section 23-23.7-4 of this  
10 chapter regarding the lot size prohibition for OHH installations. All other applicable restrictions  
11 shall apply to these units including the “Nuisance clause” (section 23-23.7-9).

12 (8) “Outdoor wood-fired hydronic heater”, or “OHH” means a device:

13 (i) Designed to burn wood or other solid fuels;

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

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

18 (9) “Phase II outdoor wood-fired hydronic heater” means an outdoor wood-fired hydronic  
19 heater that has been certified or qualified by the U.S. Environmental Protection Agency (EPA) as  
20 meeting a particulate matter emission limit of 0.32 pounds per million British Thermal Units  
21 (BTUs) output and is labeled accordingly with an EPA label.

22 (10) “Person” means any individual, partnership, firm or co-partnership, association,  
23 company, trust, corporation, department, bureau, agency, private or municipal authority, or any  
24 political subdivision of the state, the United States and or political subdivisions thereof, or any  
25 other entity recognized by law as subject to rights and duties.

26 **23-23.7-3. Use or installation prohibited.** -- (a) Effective upon passage, no person may  
27 use, allow to be used or install an OHH on property of a lot size less than one half (1/2) of one  
28 acre, or twenty-one thousand seven hundred eighty (21,780) square feet; or

29 (b) If the subject lot is surrounded on all sides by state-owned management property,  
30 conservation-owned property or other property as to be deemed unbuildable.

31 (c) No person shall sell, offer for sale – be it public or private sale - an OHH that is not a  
32 Phase 2 OHH for use in Rhode Island.

33 **23-23.7-4. Setback and stack height requirements.** -- No person shall install an OHH  
34 unless it: (1) Is installed at least fifty feet (50’) from the nearest property line and seventy-five

1 feet (75') from the nearest occupied building; and  
2 (2) Is set back from the building it services in accordance to any manufacturer's  
3 recommendations and;  
4 (3) Has a permanently attached stack that is at least two feet (2') higher than the height of  
5 adjacent occupied structures that are located within one-hundred fifty (150') of the OHH.  
6 **23-23.7-5. Manner of installation. --** No person shall install an OHH unless he or she  
7 first obtains all required permits from the appropriate authority for all mechanical, electrical and  
8 plumbing elements of the installation and these installations are approved and signed by said  
9 authority upon completion of the installation.  
10 **23-23.7-6. Permitted fuels. --** (a) No fuel except the following shall be burned in a  
11 outdoor wood-fired hydronic heater:  
12 (1) Clean wood;  
13 (2) Wood pellets made from clean wood;  
14 (3) Home heating oil, natural gas, or propane that complies with all applicable sulfur  
15 limits and is used as a starter or supplemental fuel for a dual-fired outdoor wood-fired hydronic  
16 heater;  
17 (4) Any other fuel approved by the director pursuant to duly-promulgated regulations.  
18 (b) Outdoor wood-fired hydronic heaters specifically designed to burn wood pellet fuel  
19 with metered fuel and air feed and controlled combustion engineering that are operated according  
20 to manufacturer's specifications and that burn only wood pellet fuel shall be exempt from the  
21 provisions of this chapter.  
22 **23-23.7-7. Limitations on allowable fuels. --** No person shall cause or allow any material  
23 to be burned in an OHH heater forbidden in section 23-23.7-6.  
24 **23-23.7-8. Municipal ordinances. --** Cities and towns shall have the authority and duty  
25 to enact and enforce ordinances that regulate the installation and use of OHH devices. Such  
26 ordinances shall establish setbacks and stack heights that are suitable to zoning and planning  
27 guidelines of said municipalities that are equal to, or more stringent than those set forth in this  
28 chapter.  
29 **23-23.7-9. Nuisance clause. --** If the owner or operator of an outdoor wood-fired  
30 hydronic heater as defined in this chapter operates the OHH in a manner which causes a nuisance  
31 or is injurious to the public health, the director of DEM, or director of DOH may, in writing,  
32 order that the use of the OHH shall be discontinued until the cause of the nuisance has been  
33 rectified in the prescribed manner indicated by the written order. The DEM director, and DOH  
34 director shall provide technical assistance to the municipal authorities in the determination of,

1 declaration of, and enforcement of the nuisance provision under this section.

2 **23-23.7-10. Local enforcement.** -- The responsibility for the enforcement of this chapter  
3 shall be with the local municipal building authority or such other local building official as a  
4 municipality may designate by ordinance.

5 **23-23.7-11. Notice to buyers.** -- (a) Prior to the execution of a sale for a new or used  
6 OHH, the distributor/seller shall provide the prospective buyer with a copy of this chapter and  
7 written notice which includes;

8 (1) An acknowledgement that the buyer was provided with a copy of this chapter as well  
9 as DEM Air Pollution Control Regulation No. 48;

10 (2) A list of approved fuels;

11 (3) A statement that even if the requirements set forth in this chapter are met, there may  
12 be ordinances imposed by the buyer's municipality or findings of adverse effects by the director  
13 of DEM or the director of DOH that may limit or prohibit the use of the purchased OHH.

14 (b) The notice shall be signed and dated by the buyer and the distributor/seller when the  
15 sale of the OHH is completed. The name and address of owner, name of the manufacturer, and  
16 the model and date of manufacture of the OHH shall be included in the completed notice.

17 (c) A copy of the signed written notice required pursuant to subsection (b) above, shall be  
18 kept on file by the municipal building authority in which the OHH will be installed for a period  
19 not less than three (3) years from the date of approval of the building permit, and shall be made  
20 available upon request for copying and/or inspection by the director of DEM or the director of  
21 DOH.

22 (d) If the sale is a private, or out of state sale, it will be incumbent upon the building  
23 official of the municipality in which the OHH will be installed to provide the documents listed in  
24 subsection 23-23.11(a) and follow the acknowledgement procedure in subsection 23-23.11(b)  
25 prior to issuing a building permit for the installation.

26 **23-23.7-12. Common law rights preserved.** -- The operation or use of an outdoor wood-  
27 fired hydronic heater in any manner that creates a nuisance or interferes with the health, safety, or  
28 welfare of any person is prohibited. All public or private rights of action in nuisance, negligence,  
29 or otherwise are preserved.

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

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- 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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