

2012 -- S 2085

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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 -- AIR POLLUTION

Introduced By: Senators Jabour, Pinga, and Tassoni

Date Introduced: January 18, 2012

Referred To: Senate Environment & Agriculture

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           **23-23-30.1. Findings of fact.** – 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) EPA certified wood stoves emit seventy percent (70%) to ninety percent (90%) less  
12 particulate matter (smoke) than older model non-certified wood stoves.

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

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

18           **23-23-30.2. Definitions.** – As used in sections 23-23-30.1 through 23-23-30.7, the  
19 following terms shall be construed as follows:

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

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

7 (3) "Residential area" means any area where a single unit or multiple unit dwellings exist,  
8 including nursing homes, assisted living facilities, and public housing.

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

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

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

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

21 **23-23-30.3. Phase-out of wood stoves without EPA certification in densely populated**  
22 **residential areas.** – (a) No wood stove shall be installed without having first obtained all  
23 required permits, including all permits as may be required under the Rhode Island State Building  
24 Code, under the Rhode Island Fire Safety Code, and under local ordinances and regulations.

25 (b) On or after January 1, 2013 no permit may be issued for the installation of, nor shall  
26 any person install or allow the installation of a wood stove that is not a certified wood stove in  
27 any residential dwelling or in any garage or structure ancillary thereto unless the chimney, stack,  
28 or flue through which the products of combustion pass is at least:

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

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

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

33 (d) On or after January 1, 2013, no property owner shall sell, rent, or lease or offer to sell,  
34 rent, or lease any residential dwelling or any garage or structure ancillary thereto in which a wood

1 stove other than a certified wood stove is installed unless the chimney, stack, or flue through  
2 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 (e) Except as provided in section 23-23-30.4 of this chapter, no person shall operate, use,  
6 or allow the operation or use of a wood stove other than a certified wood stove in any residential  
7 dwelling or in any garage or structure ancillary thereto on or after January 1, 2018 unless the  
8 chimney, stack, or flue through which the products of combustion pass is at least:

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

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

11 **23-23-30.4. Financial hardship exemption.** – Any person who purchased and installed a  
12 wood stove other than a certified wood stove in a residential dwelling prior to January 1, 2013,  
13 whose income, when combined with the income of all other members of his or her household, is  
14 less than two hundred fifty percent (250%) of the federal poverty level may continue to operate or  
15 use said wood stove after January 1, 2018 in any residential area, regardless of whether or not the  
16 chimney, stack, or flue through which the products of combustion pass is less than fifty feet (50')  
17 from any lot line or is less than two hundred feet (200') from a residential dwelling of an abutting  
18 owner.

19 **23-23-30.5. Limitations on allowable fuels.** – No person shall cause or allow any  
20 material to be burned in a wood stove that is not clean wood. “Clean wood” shall mean natural  
21 wood which has not been painted, varnished, or coated with a chemical or synthetic substance,  
22 has not been pressure treated with preservatives, and does not contain resins or glues as in  
23 plywood or other composite wood products. Clean wood shall include manufactured logs  
24 recommended by the manufacturer for burning in a wood stove. Clean wood shall not include  
25 driftwood.

26 **23-23-30.6. Penalties.** – Any person violating sections 23-23-30.3 or 23-23-30.5 of this  
27 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 **23-23-30.7. Enforcement.** -- (a) The responsibility for the enforcement of sections 23-  
30 23-30.1 through 23-23-30.5 of this chapter shall be with the local municipal building inspector or  
31 such other local building official as a municipality may designate by ordinance.

32 (b) The local fire authority that performs smoke detector and carbon monoxide detector  
33 inspections in residential dwellings shall, at the time of inspection, also inspect any wood stove  
34 for an EPA certification label. The local fire authority observing any violation of sections 23-23-

1 30.3 or 23-23-30.5 of this chapter shall issue a notice of violation to the homeowner and send a  
2 copy to the local building inspector or duly designated local building official. The homeowner  
3 shall inform any prospective purchaser of the violation prior to a closing by delivering a copy of  
4 the violation notice.

5 (c) The local building inspector or duly designated local building official shall, in  
6 response to a complaint or upon receipt of a notice of violation from the aforesaid local fire  
7 authority, investigate the complaint or the violation notice. The local building inspector or duly  
8 designated local building official shall serve a citation upon any person believed to be in violation  
9 of section 23-23-30.3 or 23-23-30.5 of this chapter. The citation shall describe the violation and  
10 shall direct the discontinuance or abatement of the violation. The citation shall be in writing and  
11 shall be served by regular mail and certified mail, or by posting a copy of the citation in a  
12 conspicuous place on or about the premises in violation. If the violation is not corrected within  
13 thirty (30) days after service, the local building inspector or duly designated local building  
14 official may ask legal counsel of the municipality to institute appropriate proceedings in a court  
15 of competent jurisdiction, including municipal courts, to enforce the provisions of this chapter.

16 **23-23-30.8. Common law rights preserved.** – The operation or use of a wood stove in  
17 any manner that creates a nuisance or interferes with the health, safety, or welfare of any person  
18 is prohibited. All public or private rights of action in nuisance, negligence, or otherwise are  
19 preserved.

20 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

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- 1           This act would require the phase-out of wood stoves without EPA certification in densely
- 2 populated residential areas.
- 3           This act would take effect upon passage.

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