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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO HEALTH AND SAFETY -- AIR POLLUTION

Introduced By: Representatives Handy, and Gallison

Date Introduced: February 25, 2010

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 **23-23-30.1. 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 dwellings exist,
8 including nursing homes and similar institutional facilities.

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

11 (5) "Wood" means all types of wood and wood products, including firewood, boards and
12 wood pellets.

13 (6) "Wood stove" means any device other than a fireplace designed or intended by the
14 manufacturer to burn wood inside a private residence which has a firebox volume less than
15 twenty (20) cubic feet and weighs less than eight hundred (800) kilograms.

16 **23-23-30.3. Phase-out of wood stoves without EPA certification in densely populated**
17 **residential areas. --** (a) On or after January 1, 2011 no person shall install or allow the
18 installation of a wood stove that is not a certified wood stove in any residential dwelling unit
19 unless the chimney, stack, or flue through which the products of combustion pass is at least:

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

21 (2) Two hundred feet (200') from any dwelling unit other than the dwelling unit heated or
22 otherwise serviced by the wood stove.

23 (b) No person shall operate, use, or allow the operation or use of a noncertified wood
24 stove installed after January 1, 2011 in violation of this section.

25 (c) On or after January 1, 2011, no property owner shall sell, rent, or lease or offer to sell,
26 rent, or lease any house, apartment, condominium, or other residential dwelling unit in which a
27 wood stove other than a certified wood stove is installed unless the chimney, stack, or flue
28 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 any dwelling unit other than the dwelling unit heated or
31 otherwise serviced by the wood stove.

32 (d) Except as provided in section 23-23-30.4 of this chapter, no person shall operate, use,
33 or allow the operation or use of a wood stove other than a certified wood stove in any residential
34 dwelling unit on or after January 1, 2015 unless the chimney, stack, or flue through which the

1 products of combustion pass is at least:

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

3 (2) Two hundred feet (200') from any dwelling unit other than the dwelling unit heated or
4 otherwise serviced by the wood stove.

5 **23-23-30.4. Financial hardship permits. --** Any person who purchased and installed a
6 wood stove other than a certified wood stove in a residential dwelling unit prior to January 1,
7 2011, whose income, when combined with the income of all other members of his or her
8 household, is less than two hundred fifty percent (250%) of the federal poverty level may
9 continue to operate or use said wood stove after January 1, 2016, in any residential area,
10 regardless of whether or not the chimney, stack, or flue through which the products of
11 combustion pass is less than fifty feet (50') from any lot line or is less than two hundred feet
12 (200') from any dwelling unit not heated or serviced by the wood stove.

13 **23-23-30.5. Limitations on allowable fuels. --** No person shall cause or allow any
14 material to be burned in a wood stove that is not clean wood. Clean wood shall mean natural
15 wood which has not been painted, varnished, or coated with a chemical or synthetic substance,
16 has not been pressure treated with preservatives, and does not contain resins or glues as in
17 plywood or other composite wood products. Clean wood shall include manufactured logs
18 recommended by the manufacturer for burning in a wood stove.

19 **23-23-30.6. Penalties. --** Any person violating sections 23-23-30.3 or 23-23-30.5 of this
20 chapter shall be subject to a fine not to exceed two hundred dollars (\$200) for each violation.
21 Each day during which a violation occurs or continues shall constitute a separate violation.

22 **23-23-30.7. Enforcement. --** (a) The responsibility for the enforcement of sections 23-
23 23-30.1 through 23-23-30.5 of this chapter shall be with the local municipal building inspector or
24 such other local building official as a municipality may designate by ordinance.

25 (b) The local fire authority that performs smoke detector and carbon monoxide detector
26 inspections in residential dwellings shall, at the time of inspection, also inspect any wood stove
27 for an EPA certification label. The local fire authority observing any violation of sections 23-23-
28 30.3. or 23-23-30.5 of this chapter shall issue a notice of violation to the homeowner and send a
29 copy to the local building inspector or duly designated local building official. The homeowner
30 shall inform any prospective purchaser of the violation prior to a closing by delivering a copy of
31 the violation notice.

32 (c) The local building inspector or duly designated local building official shall, in
33 response to a complaint or upon receipt of a notice of violation from the aforesaid local fire
34 authority, investigate the complaint or the violation notice. The local building inspector or duly

1 designated local building official shall serve a citation upon any person believed to be in violation
2 of section 23-23-30.3 or 23-23-30.5 of this chapter. The citation shall describe the violation and
3 shall direct the discontinuance or abatement of the violation. The citation shall be in writing and
4 shall be served by regular mail and certified mail, or by posting a copy of the citation in a
5 conspicuous place on or about the premises in violation. If the violation is not corrected within
6 thirty (30) days after service, the local building inspector or duly designated local building
7 official may ask legal counsel of the municipality to institute appropriate proceedings in a court
8 of competent jurisdiction, including municipal courts, to enforce the provisions of this chapter.

9 **23-23-30.8. Common law rights preserved.** – The operation or use of a wood stove in
10 any manner that creates a nuisance or interferes with the health, safety, or welfare of any person
11 is prohibited. All public or private rights of action in nuisance, negligence, or otherwise are
12 preserved.

13 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO HEALTH AND SAFETY -- AIR POLLUTION

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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