2182--A

2011-2012 Regular Sessions

IN SENATE

January 18, 2011

Introduced by Sens. LITTLE, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to outdoor wood boilers

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The legislature finds that wood is a sustainable and renewable resource and that burning clean wood for heat reduces our dependence on more costly foreign non-renewable sources of energy. The legislature further finds that responsible burning of clean wood in an outdoor wood boiler provides a reliable source of heat and hot water at a relatively low cost when compared to other energy sources. Furthermore, the legislature finds that because of the wide variation in climate, topography, community character and socio-economic conditions throughout New York state, any regulation of outdoor wood boilers that is more restrictive than that contained in this act is most appropriately left to local governments.

S 2. Article 19 of the environmental conservation law is amended by adding a new title 13 to read as follows:

TITLE 13

REGULATION OF OUTDOOR WOOD BOILERS

SECTION 19-1301. REGULATION OF OUTDOOR WOOD BOILERS.

- S 19-1301. REGULATION OF OUTDOOR WOOD BOILERS.
- 18 1. DEFINITIONS. AS USED IN THIS TITLE THE FOLLOWING TERMS SHALL MEAN:
  - (A) "CLEAN WOOD" MEANS WOOD THAT HAS NOT BEEN PAINTED, STAINED, COAT-ED, PRESERVED, OR TREATED WITH ANY PRESERVATIVE, HERBICIDE, PESTICIDE,
- 21 ADHESIVE OR OTHER CHEMICAL COATING.

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EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[ ] is old law to be omitted.

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- (B) "OTHER BIOMASS" MEANS WOOD PELLETS, CORN, OR WOOD CHIPS.
- (C) "OUTDOOR WOOD BOILER" ALSO KNOWN AS "HYDRONIC HEATERS" MEANS A FUEL BURNING DEVICE THAT IS DESIGNED TO PRIMARILY BURN CLEAN WOOD, OR OTHER BIOMASS THAT IS CONSISTENT WITH THE UNIT MANUFACTURER'S RECOMMEN-DATIONS, AND IS TYPICALLY USED OUTDOORS OR IN BUILDINGS NOT NORMALLY OCCUPIED BY HUMANS, SUCH AS GARAGES, SHEDS OR BARNS. OUTDOOR WOOD BOIL-ERS ARE USED TO HEAT WATER OR A WATER AND ANTI-FREEZE MIXTURE THAT IS DISTRIBUTED THROUGH PIPES GIVING OFF HEAT IN THE PROCESS.
- (D) "NUISANCE" MEANS THE OPERATION OF AN OUTDOOR WOOD BOILER IN SUCH A 9 10 WAY AS TO CREATE A CONDITION THAT INTERFERES WITH THE QUIET USE AND ENJOYMENT OF NEIGHBORING REAL PROPERTY BY THE OWNER AND/OR OCCUPANT OF 11 12 SUCH PROPERTY.
- SHALL BE UNLAWFUL TO OPERATE AN OUTDOOR WOOD BOILER USING ANY IT14 FUEL SOURCE OTHER THAN CLEAN WOOD OR OTHER BIOMASS THAT IS CONSISTENT 15 WITH THE RECOMMENDATIONS OF THE MANUFACTURER OF SUCH OUTDOOR WOOD BOIL-
  - 3. OPERATION OF AN OUTDOOR WOOD BOILER IN SUCH A WAY AS TO CREATE A CONDITION THAT INTERFERES WITH THE OUIET USE AND ENJOYMENT OF NEIGHBOR-ING LAND BY THE OWNER OF SUCH LAND SHALL CONSTITUTE A NUISANCE VIOLATOR SHALL BE SUBJECT TO THE ENFORCEMENT ACTIONS UNDER THE NUISANCE PROVISIONS OF SECTION EIGHT HUNDRED FORTY-ONE OF THE REAL ACTIONS AND PROCEEDINGS LAW AND/OR SECTION THIRTEEN HUNDRED FOUR OF THE PUBLIC HEALTH LAW.
  - 4. NO PERSON SHALL OFFER FOR SALE, INSTALL OR ALLOW TO BE INSTALLED ANY OUTDOOR WOOD BOILER THAT DOES NOT MEET THE STANDARDS ESTABLISHED PURSUANT TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY PHASE II VOLUNTARY PARTNERSHIP PROGRAM FOR EMISSIONS FROM OUTDOOR WOOD BOILERS OF .32 POUNDS PER MILLION BRITISH THERMAL UNITS AFTER JANUARY FIRST, TWO THOU-SAND THIRTEEN.
- 5. THE DEPARTMENT SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC GUID-30 ANCE ON THE BEST PRACTICES TO FOLLOW INCLUDING BUT NOT LIMITED TO THE 31 32 OPERATION, SITING, AND RECOMMENDED STACK HEIGHT FOR OUTDOOR WOOD BOIL-33
  - 6. NOTHING IN THIS SECTION SHALL PRECLUDE A LOCAL GOVERNMENT FROM ENACTING MORE STRINGENT STANDARDS THAN THOSE ESTABLISHED IN THIS TITLE.
- 7. ANY MORE STRINGENT REGULATION OF OUTDOOR WOOD BOILERS BEYOND 36 37 WHICH IS CONTAINED IN THIS SECTION SHALL BE LEFT TO THE GOVERNING BODIES 38 OF THE STATE'S CITIES, TOWNS AND VILLAGES.
- 39 S 3. This act shall take effect immediately.