

430

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. KAVANAGH, BENEDETTO, GOTTFRIED, JEFFRIES, KOON, PERALTA, PHEFFER, GREENE, DESTITO -- Multi-Sponsored by -- M. of A. BOYLAND, BROOK-KRASNY, CAHILL, CALHOUN, CAMARA, DelMONTE, FINCH, GUNTHER, MAYERSOHN, McKEVITT, NOLAN, SCHIMEL, WEISENBERG -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, the multiple dwelling law and the multiple residence law, in relation to preventing scalding burns by requiring safe temperatures for tap water in multiple dwellings and one-family and two-family tenant occupied dwelling units; and to amend the general municipal law, in relation to minimum water temperatures

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

1 Section 1. This act shall be known and may be cited as the "household
2 scalding safety act".
3 S 2. Legislative findings and intent. The legislature hereby finds and
4 declares it necessary to prevent scalding burns by requiring safe
5 temperatures for tap water in multiple-family dwellings and one-family
6 and two-family dwelling units occupied by one or more tenants.
7 Studies have shown that water at 160 degrees Fahrenheit causes full
8 thickness or "third-degree" burns within one second; water at 140
9 degrees causes such burns in six seconds; water at 130 degrees causes
10 such burns in thirty seconds. Shockingly, tap water temperatures hotter
11 than 160 degrees Fahrenheit have been found in homes within the state of
12 New York.
13 The U.S. Consumer Product Safety Commission estimates that nationwide
14 approximately 3,800 injuries and 34 deaths result each year from scald-
15 ing by excessively hot tap water in the home. Children and elderly
16 persons are particularly susceptible to such burns given the delicacy
17 and sensitivity of their skin.

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

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1 Accordingly, the legislature finds it necessary to prevent burns
2 caused by excessively hot tap water by mandating temperature
3 restrictions in multiple-family dwellings and one-family and two-family
4 dwelling units occupied by one or more tenants. The U.S. Consumer Prod-
5 uct Safety Commission has concluded that a safe temperature is 120
6 degrees Fahrenheit in that it would take approximately five minutes for
7 water at such temperature to cause a full thickness burn.

8 The legislature further predicts that such mandated temperature
9 restrictions will lead to decreased utility costs for landlords and will
10 not have any negative impact on the quality of the water. Moreover,
11 implementing these standards will be low in cost to most landlords. Most
12 landlords can comply with these standards by adjusting the thermostat.
13 Others may install anti-scald devices or other certified temperature
14 control mechanisms.

15 S 3. Section 378 of the executive law is amended by adding a new
16 subdivision 17 to read as follows:

17 17. ANTI-SCALD STANDARDS. A. AS USED IN THIS SUBDIVISION, THE TERM
18 "ANTI-SCALD DEVICE" SHALL MEAN A DEVICE WHICH PREVENTS A BATHTUB, SHOW-
19 ER, WASHBASIN, OR SINK FROM EMITTING WATER HAVING A TEMPERATURE IN
20 EXCESS OF ONE HUNDRED TWENTY DEGREES FAHRENHEIT, SUCH AS A TEMPERATURE
21 CONTROL VALVE, A PRESSURE BALANCE VALVE, OR AN ANTI-SCALD VALVE AND
22 WHICH IS EITHER TO BE INSTALLED BEFORE OR WHICH IS AFFIXED TO SUCH
23 FIXTURE. SUCH DEVICE SHALL MEET ONE OF THE ACCEPTED NATIONAL STANDARD
24 PLUMBING CODES: THE BUILDING OFFICIALS AND CODE ADMINISTRATION, INC.
25 (BOCA), THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFI-
26 CIALS (IAPMO), THE SOUTHERN BUILDING CODE CONGRESS INTERNATIONAL (SBCCI)
27 OR THE NATIONAL STANDARD PLUMBING CODE (NSPC).

28 B. NO BATHTUB, SHOWER, WASHBASIN OR SINK IN ANY DWELLING UNIT IN A
29 MULTIPLE DWELLING OR TENANT-OCCUPIED ONE-FAMILY OR TWO-FAMILY DWELLING
30 SHALL EMIT WATER HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY
31 DEGREES FAHRENHEIT.

32 C. ANY OWNER OF A DWELLING FOUND TO EMIT WATER THAT EXCEEDS THE STAND-
33 ARD IN PARAGRAPH B OF THIS SUBDIVISION SHALL BE IN VIOLATION OF THIS
34 SECTION AND SHALL BE LIABLE FOR A FINE.

35 (I) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED TWENTY DEGREES
36 FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED THIRTY DEGREES FAHRENHEIT,
37 THE FINE SHALL BE TWO HUNDRED FIFTY DOLLARS FOR THE FIRST VIOLATION AND
38 FIVE HUNDRED DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

39 (II) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED THIRTY DEGREES
40 FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED FORTY DEGREES FAHRENHEIT, THE
41 FINE SHALL BE FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION AND ONE THOU-
42 SAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

43 (III) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED FORTY DEGREES
44 FAHRENHEIT, THE FINE SHALL BE ONE THOUSAND DOLLARS FOR THE FIRST
45 VIOLATION AND TWO THOUSAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT
46 VIOLATION.

47 D. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
48 CONTRARY, ANY OWNER OF A RESIDENCE WHO INSTALLS AN ANTI-SCALD DEVICE
49 PURSUANT TO THIS SUBDIVISION SHALL NOT BE:

50 (I) RESPONSIBLE TO ANY PERSON FOR INJURIES CAUSED SOLELY BY THE FAIL-
51 URE OF SUCH DEVICE TO OPERATE PROPERLY IF THE DEVICE HAS BEEN TAMPERED
52 WITH OR RENDERED INOPERABLE BY THE OCCUPANTS OF SUCH RESIDENCE; OR

53 (II) RESPONSIBLE TO ANY PERSON OR SUBJECT TO PENALTY OF LAW FOR FAIL-
54 URE TO DELIVER HOT WATER CONTINUOUSLY OR AT ANY MINIMUM TEMPERATURE
55 REQUIRED BY ANY LAW, RULE OR REGULATION SOLELY BY REASON OF THE PROPER
56 OPERATION OF THE ANTI-SCALD DEVICE.

1 E. INSTALLATION OF AN ANTI-SCALD DEVICE, OR ANY WORK NECESSARY TO THE
2 INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS SECTION, SHALL NOT QUAL-
3 IFY FOR A RENT INCREASE UNDER ANY PROVISION OF LAW IMPLEMENTED TO REGU-
4 LATE SUCH RENTS.

5 S 4. The multiple dwelling law is amended by adding a new section 75-a
6 to read as follows:

7 S 75-A. ANTI-SCALD STANDARDS. 1. AS USED IN THIS SECTION, THE TERM
8 "ANTI-SCALD DEVICE" SHALL MEAN A DEVICE WHICH PREVENTS A BATHTUB, SHOW-
9 ER, WASHBASIN, OR SINK FROM EMITTING WATER HAVING A TEMPERATURE IN
10 EXCESS OF ONE HUNDRED TWENTY DEGREES FAHRENHEIT, SUCH AS TEMPERATURE
11 CONTROL VALVES, PRESSURE BALANCE VALVES, OR ANTI-SCALD VALVES, AND WHICH
12 IS EITHER TO BE INSTALLED BEFORE OR WHICH IS AFFIXED TO SUCH FIXTURE.
13 SUCH DEVICE SHALL MEET ONE OF THE ACCEPTED NATIONAL STANDARD PLUMBING
14 CODES: THE BUILDING OFFICIALS AND CODE ADMINISTRATION, INC. (BOCA), THE
15 INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFICIALS (IAPMO),
16 THE SOUTHERN BUILDING CODE CONGRESS INTERNATIONAL (SBCCI) OR THE
17 NATIONAL STANDARD PLUMBING CODE (NSPC).

18 2. NO BATHTUB, SHOWER, WASHBASIN, OR SINK IN ANY DWELLING UNIT IN A
19 MULTIPLE DWELLING OR TENANT-OCCUPIED ONE-FAMILY OR TWO-FAMILY DWELLING
20 SHALL EMIT WATER HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY
21 DEGREES FAHRENHEIT.

22 3. ANY OWNER OF SUCH A DWELLING FOUND TO EMIT WATER THAT EXCEEDS THE
23 STANDARD IN SUBDIVISION TWO OF THIS SECTION SHALL BE IN VIOLATION OF
24 THIS SECTION AND SHALL BE LIABLE FOR A FINE.

25 (A) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED TWENTY DEGREES
26 FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED THIRTY DEGREES FAHRENHEIT,
27 THE FINE SHALL BE TWO HUNDRED FIFTY DOLLARS FOR THE FIRST VIOLATION AND
28 FIVE HUNDRED DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

29 (B) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED THIRTY DEGREES
30 FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED FORTY DEGREES FAHRENHEIT, THE
31 FINE SHALL BE FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION AND ONE THOU-
32 SAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

33 (C) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED FORTY DEGREES FAHREN-
34 HEIT, THE FINE SHALL BE ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION AND
35 TWO THOUSAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

36 4. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
37 CONTRARY, ANY OWNER OF A RESIDENCE WHO INSTALLS AN ANTI-SCALD DEVICE
38 PURSUANT TO THIS SECTION SHALL NOT BE:

39 A. RESPONSIBLE TO ANY PERSON FOR INJURIES CAUSED SOLELY BY THE FAILURE
40 OF SUCH DEVICE TO OPERATE PROPERLY IF THE DEVICE HAS BEEN TAMPERED WITH
41 OR RENDERED INOPERABLE BY THE OCCUPANTS OF SUCH RESIDENCE; OR

42 B. RESPONSIBLE TO ANY PERSON OR SUBJECT TO PENALTY OF LAW FOR FAILURE
43 TO DELIVER HOT WATER CONTINUOUSLY OR AT ANY MINIMUM TEMPERATURE REQUIRED
44 BY ANY LAW, RULE OR REGULATION SOLELY BY REASON OF THE PROPER OPERATION
45 OF THE ANTI-SCALD DEVICE.

46 5. INSTALLATION OF AN ANTI-SCALD DEVICE, OR ANY WORK NECESSARY TO THE
47 INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS SECTION, SHALL NOT QUAL-
48 IFY FOR A RENT INCREASE UNDER ANY PROVISION OF LAW IMPLEMENTED TO REGU-
49 LATE SUCH RENTS.

50 S 5. The multiple residence law is amended by adding a new section 16
51 to read as follows:

52 S 16. ANTI-SCALD STANDARDS. 1. AS USED IN THIS SECTION, THE TERM
53 "ANTI-SCALD DEVICE" SHALL MEAN A DEVICE WHICH PREVENTS A BATHTUB, SHOW-
54 ER, WASHBASIN, OR SINK FROM EMITTING WATER HAVING A TEMPERATURE IN
55 EXCESS OF ONE HUNDRED TWENTY DEGREES FAHRENHEIT, SUCH AS A TEMPERATURE
56 CONTROL VALVE, PRESSURE BALANCE VALVE, OR AN ANTI-SCALD DEVICE, AND

1 WHICH IS EITHER TO BE INSTALLED BEFORE OR WHICH IS AFFIXED TO SUCH
2 FIXTURE. SUCH DEVICES SHALL MEET ONE OF THE ACCEPTED NATIONAL STANDARD
3 PLUMBING CODES: THE BUILDING OFFICIALS AND CODE ADMINISTRATION, INC.
4 (BOCA), THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFI-
5 CIALS (IAPMO), THE SOUTHERN BUILDING CODE CONGRESS INTERNATIONAL (SBCCI)
6 OR THE NATIONAL STANDARD PLUMBING CODE (NSPC).

7 2. NO BATHTUB, SHOWER, WASHBASIN, OR SINK IN ANY DWELLING UNIT IN A
8 MULTIPLE DWELLING OR TENANT OCCUPIED ONE-FAMILY OR TWO-FAMILY DWELLING
9 SHALL EMIT WATER HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY
10 DEGREES FAHRENHEIT.

11 3. ANY OWNER OF A DWELLING FOUND TO EMIT WATER THAT EXCEEDS THE STAND-
12 ARD IN SUBDIVISION TWO OF THIS SECTION SHALL BE IN VIOLATION OF THIS
13 SECTION AND SHALL BE LIABLE FOR A FINE.

14 (A) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED TWENTY DEGREES
15 FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED THIRTY DEGREES FAHRENHEIT,
16 THE FINE SHALL BE TWO HUNDRED FIFTY DOLLARS FOR THE FIRST VIOLATION AND
17 FIVE HUNDRED DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

18 (B) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED THIRTY DEGREES
19 FAHRENHEIT BUT DOES NOT EXCEED ONE HUNDRED FORTY DEGREES FAHRENHEIT, THE
20 FINE SHALL BE FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION AND ONE THOU-
21 SAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

22 (C) IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED FORTY DEGREES FAHREN-
23 HEIT, THE FINE SHALL BE ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION AND
24 TWO THOUSAND DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

25 4. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
26 CONTRARY, ANY OWNER OF A RESIDENCE WHO INSTALLS AN ANTI-SCALD DEVICE
27 PURSUANT TO THIS SECTION SHALL NOT BE:

28 (A) RESPONSIBLE TO ANY PERSON FOR INJURIES CAUSED SOLELY BY THE FAIL-
29 URE OF SUCH DEVICE TO OPERATE PROPERLY IF THE DEVICE HAS BEEN TAMPERED
30 WITH OR RENDERED INOPERABLE BY THE OCCUPANTS OF SUCH RESIDENCE; OR

31 (B) RESPONSIBLE TO ANY PERSON OR SUBJECT TO PENALTY OF LAW FOR FAILURE
32 TO DELIVER HOT WATER CONTINUOUSLY OR AT ANY MINIMUM TEMPERATURE REQUIRED
33 BY ANY LAW, RULE OR REGULATION SOLELY BY REASON OF THE PROPER OPERATION
34 OF THE ANTI-SCALD DEVICE.

35 5. INSTALLATION OF AN ANTI-SCALD DEVICE, OR ANY WORK NECESSARY TO THE
36 INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS SECTION, SHALL NOT QUAL-
37 IFY FOR A RENT INCREASE UNDER ANY PROVISION OF LAW IMPLEMENTED TO REGU-
38 LATE SUCH RENTS.

39 S 6. The general municipal law is amended by adding a new section 137
40 to read as follows:

41 S 137. MINIMUM TEMPERATURE FOR TAP WATER. IF ANY MUNICIPAL CORPORATION
42 ENACTS A LOCAL LAW, RULE, ORDINANCE, OR REGULATION RELATING TO THE MINI-
43 MUM TEMPERATURE OF TAP WATER SUPPLIED TO A RESIDENCE, THE MUNICIPAL
44 CORPORATION SHALL ENSURE THAT SUCH MINIMUM TEMPERATURE IS NO HIGHER THAN
45 ONE HUNDRED TEN DEGREES FAHRENHEIT.

46 S 7. This act shall take effect on the one hundred eightieth day after
47 it shall have become a law. Effective immediately, the state fire
48 prevention and building code council shall promulgate the standards
49 required by this act.