S T A T E O F N E W Y O R K

2751

2009-2010 Regular Sessions

I N S E N A T E

March 2, 2009

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Housing, Construction and Community Development

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:

Section 1. This act shall be known and may be cited as the "household scalding safety act".

S 2. Legislative findings and intent. The legislature hereby finds and declares it necessary to prevent scalding burns by requiring safe temperatures for tap water in multiple-family dwellings and one-family and two-family dwelling units occupied by one or more tenants.

Studies have shown that water at 160 degrees Fahrenheit causes full thickness or "third-degree" burns within one second; water at 140 degrees causes such burns in six seconds; water at 130 degrees causes such burns in thirty seconds. Shockingly, tap water temperatures hotter than 160 degrees Fahrenheit have been found in homes within the state of New York.

The U.S. Consumer Product Safety Commission estimates that nationwide approximately 3,800 injuries and 34 deaths result each year from scalding by excessively hot tap water in the home. Children and elderly persons are particularly susceptible to such burns given the delicacy and sensitivity of their skin.

Accordingly, the legislature finds it necessary to prevent burns caused by excessively hot tap water by mandating temperature restrictions in multiple-family dwellings and one-family and two-family dwelling units occupied by one or more tenants. The U.S. Consumer Prod-

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

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uct Safety Commission has concluded that a safe temperature is 120 degrees Fahrenheit in that it would take approximately five minutes for water at such temperature to cause a full thickness burn.

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

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

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

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

C. ANY OWNER OF A DWELLING FOUND TO EMIT WATER THAT EXCEEDS THE STANDARD IN PARAGRAPH B OF THIS SUBDIVISION SHALL BE IN VIOLATION OF THIS SECTION AND SHALL BE LIABLE FOR A FINE.

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

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

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

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

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

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

E. INSTALLATION OF AN ANTI-SCALD DEVICE, OR ANY WORK NECESSARY TO THE INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS SECTION, SHALL NOT QUALIFY FOR A RENT INCREASE UNDER ANY PROVISION OF LAW IMPLEMENTED TO REGULATE SUCH RENTS.

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

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

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

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

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

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

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

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

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

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

5. INSTALLATION OF AN ANTI-SCALD DEVICE, OR ANY WORK NECESSARY TO THE INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS SECTION, SHALL NOT QUALIFY FOR A RENT INCREASE UNDER ANY PROVISION OF LAW IMPLEMENTED TO REGULATE SUCH RENTS.

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

S 16. ANTI-SCALD STANDARDS. 1. AS USED IN THIS SECTION, THE TERM "ANTI-SCALD DEVICE" SHALL MEAN A DEVICE WHICH PREVENTS A BATHTUB, SHOWER, WASHBASIN, OR SINK FROM EMITTING WATER HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY DEGREES FAHRENHEIT, SUCH AS A TEMPERATURE CONTROL VALVE, PRESSURE BALANCE VALVE, OR AN ANTI-SCALD DEVICE, AND WHICH IS EITHER TO BE INSTALLED BEFORE OR WHICH IS AFFIXED TO SUCH FIXTURE. SUCH DEVICES SHALL MEET ONE OF THE ACCEPTED NATIONAL STANDARD PLUMBING CODES: THE BUILDING OFFICIALS AND CODE ADMINISTRATION, INC. (BOCA), THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFI-

CIALS (IAPMO), THE SOUTHERN BUILDING CODE CONGRESS INTERNATIONAL (SBCCI) OR THE NATIONAL STANDARD PLUMBING CODE (NSPC).

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

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

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

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

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

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

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

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

5. INSTALLATION OF AN ANTI-SCALD DEVICE, OR ANY WORK NECESSARY TO THE INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS SECTION, SHALL NOT QUALIFY FOR A RENT INCREASE UNDER ANY PROVISION OF LAW IMPLEMENTED TO REGULATE SUCH RENTS.

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

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

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