

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:

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.  
18 Accordingly, the legislature finds it necessary to prevent burns  
19 caused by excessively hot tap water by mandating temperature  
20 restrictions in multiple-family dwellings and one-family and two-family  
21 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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1 uct Safety Commission has concluded that a safe temperature is 120  
2 degrees Fahrenheit in that it would take approximately five minutes for  
3 water at such temperature to cause a full thickness burn.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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