

8488

2009-2010 Regular Sessions

I N A S S E M B L Y

May 21, 2009

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Energy

AN ACT to amend the public authorities law, the energy law, the executive law, the multiple dwelling law and the multiple residence law, in relation to energy conservation and water temperature management; 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 "energy
2 conservation and water temperature management act".
3 S 2. Legislative findings. [Reserved]
4 S 3. The public authorities law is amended by adding a new section
5 1874 to read as follows:
6 S 1874. ENERGY CONSERVATION THROUGH WATER TEMPERATURE MANAGEMENT. 1.
7 THE AUTHORITY SHALL CAUSE A STUDY TO BE PERFORMED ON THE SAVINGS GENER-
8 ATED BY BETTER MANAGEMENT OF WATER TEMPERATURE IN PUBLIC BUILDINGS AND
9 FACILITIES, MULTIPLE DWELLINGS, AND TENANT-OCCUPIED ONE-FAMILY AND TWO-
10 FAMILY DWELLINGS THROUGHOUT THE STATE.
11 2. THE AUTHORITY SHALL SUBMIT A REPORT OF ITS FINDINGS TO THE GOVER-
12 NOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE
13 ASSEMBLY BY APRIL THIRTIETH, TWO THOUSAND TEN. THE REPORT SHALL INCLUDE:
14 (A) A PROPOSAL FOR STANDARDS AND DESIGNS FOR ENERGY EFFICIENT WATER
15 TEMPERATURE CONTROL DEVICES FOR RESIDENCES, MULTIPLE DWELLINGS, AND
16 PUBLIC BUILDINGS AND FACILITIES;
17 (B) AN ANALYSIS OF EMPIRICAL DATA AND STATISTICS REGARDING THE MONE-
18 TARY COSTS AND SAVINGS, THE ENERGY CONSERVATION, AND THE ENVIRONMENTAL
19 BENEFIT OFFERED THROUGH BETTER MANAGEMENT OF WATER TEMPERATURES; AND
20 (C) ANY PROPOSED LEGISLATION OR SUGGESTED CHANGES TO THE CURRENT LAW
21 THAT WOULD ASSIST PUBLIC ENTITIES AND PRIVATE CITIZENS TO CONSERVE ENER-
22 GY AND SAVE MONEY THROUGH BETTER MANAGEMENT OF WATER TEMPERATURES.

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

LBD11948-01-9

1 S 4. The energy law is amended by adding a new article 19 to read as
2 follows:

3 ARTICLE 19

4 ENERGY CONSERVATION AND WATER TEMPERATURE MANAGEMENT

5 SECTION 19-101. ENERGY CONSERVATION IN PUBLIC BUILDINGS AND FACILITIES.

6 S 19-101. ENERGY CONSERVATION IN PUBLIC BUILDINGS AND FACILITIES. 1.
7 NO BATHTUB, SHOWER, WASHBASIN OR SINK IN ANY PUBLIC BUILDING OR FACILITY
8 SHALL EMIT WATER HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY
9 DEGREES FAHRENHEIT.

10 2. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
11 CONTRARY, ANY MUNICIPALITY OR OTHER PUBLIC ENTITY WHO, PURSUANT TO THIS
12 SUBDIVISION, INSTALLS A WATER TEMPERATURE CONTROL DEVICE AS DEFINED IN
13 PARAGRAPH E OF SUBDIVISION SEVENTEEN OF SECTION THREE HUNDRED
14 SEVENTY-EIGHT OF THE EXECUTIVE LAW SHALL NOT BE:

15 (A) RESPONSIBLE TO ANY PERSON FOR INJURIES CAUSED SOLELY BY THE FAIL-
16 URE OF SUCH DEVICE TO OPERATE PROPERLY IF SUCH FAILURE RESULTS FROM THE
17 DEVICE BEING TAMPERED WITH OR RENDERED INOPERABLE BY ANY INVITEE OR
18 LICENSEE IN SUCH BUILDING OR FACILITY; OR

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

23 S 5. Section 378 of the executive law is amended by adding a new
24 subdivision 17 to read as follows:

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

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

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

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

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

44 C. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
45 CONTRARY, ANY OWNER OF A DWELLING WHO, PURSUANT TO THIS SUBDIVISION,
46 INSTALLS A WATER TEMPERATURE CONTROL DEVICE AS DEFINED IN PARAGRAPH E OF
47 THIS SUBDIVISION SHALL NOT BE:

48 (I) RESPONSIBLE TO ANY PERSON FOR INJURIES CAUSED SOLELY BY THE FAIL-
49 URE OF SUCH DEVICE TO OPERATE PROPERLY IF SUCH FAILURE RESULTS FROM THE
50 DEVICE BEING TAMPERED WITH OR RENDERED INOPERABLE BY ANY INVITEE OR
51 LICENSEE IN SUCH BUILDING OR FACILITY; OR

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

1 D. 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 E. FOR PURPOSES OF THIS SECTION, A WATER TEMPERATURE CONTROL DEVICE
6 SHALL MEAN AN ANTI-SCALD DEVICE OR OTHER DEVICE THAT PREVENTS WATER
7 EMITTED BY A BATHTUB, SHOWER, WASHBASIN, OR SINK FROM EXCEEDING A MAXI-
8 MUM TEMPERATURE SET BY THE DEVICE, WHERE SUCH DEVICE MEETS THE ACCEPTED
9 NATIONAL STANDARD PLUMBING CODES OF THE BUILDING OFFICIALS AND CODE
10 ADMINISTRATION, INC. (BOCA), THE INTERNATIONAL ASSOCIATION OF PLUMBING
11 AND MECHANICAL OFFICIALS (IAPMO), THE SOUTHERN BUILDING CODE CONGRESS
12 INTERNATIONAL (SBCCI), OR THE NATIONAL STANDARD PLUMBING CODE (NSPC).

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

15 S 75-A. WATER TEMPERATURE MANAGEMENT STANDARDS. 1. NO BATHTUB, SHOWER,
16 WASHBASIN OR SINK IN ANY DWELLING UNIT IN A MULTIPLE DWELLING OR
17 TENANT-OCCUPIED ONE-FAMILY OR TWO-FAMILY DWELLING SHALL EMIT WATER
18 HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY DEGREES FAHRENHEIT.

19 2. ANY OWNER OF A DWELLING FOUND TO EMIT WATER THAT EXCEEDS THE STAND-
20 ARD IN PARAGRAPH B OF THIS SUBDIVISION SHALL BE IN VIOLATION OF THIS
21 SECTION AND SHALL BE LIABLE FOR A FINE.

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

26 B. IF THE WATER TEMPERATURE EXCEEDS ONE HUNDRED THIRTY DEGREES FAHREN-
27 HEIT BUT DOES NOT EXCEED ONE HUNDRED FORTY DEGREES FAHRENHEIT, THE FINE
28 SHALL BE FIVE HUNDRED DOLLARS FOR THE FIRST VIOLATION AND ONE THOUSAND
29 DOLLARS FOR THE SECOND AND ANY SUBSEQUENT VIOLATION.

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

33 3. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
34 CONTRARY, ANY OWNER OF A DWELLING WHO, PURSUANT TO THIS SUBDIVISION,
35 INSTALLS A WATER TEMPERATURE CONTROL DEVICE AS DEFINED IN PARAGRAPH E OF
36 SUBDIVISION SEVENTEEN OF SECTION THREE HUNDRED SEVENTY-EIGHT OF THE
37 EXECUTIVE LAW SHALL NOT BE:

38 A. RESPONSIBLE TO ANY PERSON FOR INJURIES CAUSED SOLELY BY THE FAILURE
39 OF SUCH DEVICE TO OPERATE PROPERLY IF SUCH FAILURE RESULTS FROM THE
40 DEVICE BEING TAMPERED WITH OR RENDERED INOPERABLE BY ANY INVITEE OR
41 LICENSEE IN SUCH BUILDING OR FACILITY; 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 WATER TEMPERATURE CONTROL DEVICE.

46 4. INSTALLATION OF A WATER TEMPERATURE CONTROL DEVICE, OR ANY WORK
47 NECESSARY TO THE INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS
48 SECTION, SHALL NOT QUALIFY FOR A RENT INCREASE UNDER ANY PROVISION OF
49 LAW IMPLEMENTED TO REGULATE SUCH RENTS.

50 S 7. The multiple residence law is amended by adding a new section 16
51 to read as follows:

52 S 16. WATER TEMPERATURE MANAGEMENT STANDARDS. 1. NO BATHTUB, SHOWER,
53 WASHBASIN OR SINK IN ANY DWELLING UNIT IN A MULTIPLE DWELLING OR
54 TENANT-OCCUPIED ONE-FAMILY OR TWO-FAMILY DWELLING SHALL EMIT WATER
55 HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY DEGREES FAHRENHEIT.

1 2. ANY OWNER OF A DWELLING FOUND TO EMIT WATER THAT EXCEEDS THE STAND-
2 ARD IN PARAGRAPH (B) OF THIS SUBDIVISION SHALL BE IN VIOLATION OF THIS
3 SECTION AND SHALL BE LIABLE FOR A FINE.

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

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

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

15 3. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
16 CONTRARY, ANY OWNER OF A DWELLING WHO, PURSUANT TO THIS SUBDIVISION,
17 INSTALLS A WATER TEMPERATURE CONTROL DEVICE AS DEFINED IN PARAGRAPH E OF
18 SUBDIVISION SEVENTEEN OF SECTION THREE HUNDRED SEVENTY-EIGHT OF THE
19 EXECUTIVE LAW SHALL NOT BE:

20 (A) RESPONSIBLE TO ANY PERSON FOR INJURIES CAUSED SOLELY BY THE FAIL-
21 URE OF SUCH DEVICE TO OPERATE PROPERLY IF SUCH FAILURE RESULTS FROM THE
22 DEVICE BEING TAMPERED WITH OR RENDERED INOPERABLE BY ANY INVITEE OR
23 LICENSEE IN SUCH BUILDING OR FACILITY; OR

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

28 4. INSTALLATION OF A WATER TEMPERATURE CONTROL DEVICE, OR ANY WORK
29 NECESSARY TO THE INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS
30 SECTION, SHALL NOT QUALIFY FOR A RENT INCREASE UNDER ANY PROVISION OF
31 LAW IMPLEMENTED TO REGULATE SUCH RENTS.

32 S 8. The general municipal law is amended by adding a new section 137
33 to read as follows:

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

39 S 9. This act shall take effect on the one hundred eightieth day after
40 it shall have become a law.