

S T A T E   O F   N E W   Y O R K

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8488--A

2009-2010 Regular Sessions

I N   A S S E M B L Y

May 21, 2009

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Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Energy -- recommitted to the Committee on Energy in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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. The public authorities law is amended by adding a new section  
4 1874 to read as follows:  
5     S 1874. ENERGY CONSERVATION THROUGH WATER TEMPERATURE MANAGEMENT. 1.  
6 THE AUTHORITY SHALL CAUSE A STUDY TO BE PERFORMED ON THE SAVINGS GENER-  
7 ATED BY BETTER MANAGEMENT OF WATER TEMPERATURE IN PUBLIC BUILDINGS AND  
8 FACILITIES, MULTIPLE DWELLINGS, AND TENANT-OCCUPIED ONE-FAMILY AND TWO-  
9 FAMILY DWELLINGS THROUGHOUT THE STATE.  
10     2. THE AUTHORITY SHALL SUBMIT A REPORT OF ITS FINDINGS TO THE GOVER-  
11 NOR, THE TEMPORARY PRESIDENT OF THE SENATE, AND THE SPEAKER OF THE  
12 ASSEMBLY BY APRIL THIRTIETH, TWO THOUSAND ELEVEN. THE REPORT SHALL  
13 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

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

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(C) ANY PROPOSED LEGISLATION OR SUGGESTED CHANGES TO THE CURRENT LAW THAT WOULD ASSIST PUBLIC ENTITIES AND PRIVATE CITIZENS TO CONSERVE ENERGY AND SAVE MONEY THROUGH BETTER MANAGEMENT OF WATER TEMPERATURES.

S 3. The energy law is amended by adding a new article 19 to read as follows:

#### ARTICLE 19

##### ENERGY CONSERVATION AND WATER TEMPERATURE MANAGEMENT

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

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

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

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

S 4. Section 378 of the executive law is amended by adding a new subdivision 17 to read as follows:

17. WATER TEMPERATURE MANAGEMENT STANDARDS. A. 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.

B. ANY OWNER OF A DWELLING FOUND TO EMIT WATER THAT EXCEEDS THE STANDARD 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.

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

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

D. 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.

E. FOR PURPOSES OF THIS SECTION, A WATER TEMPERATURE CONTROL DEVICE SHALL MEAN AN ANTI-SCALD DEVICE OR OTHER DEVICE THAT PREVENTS WATER EMITTED BY A BATHTUB, SHOWER, WASHBASIN, OR SINK FROM EXCEEDING A MAXIMUM TEMPERATURE SET BY THE DEVICE, WHERE SUCH DEVICE MEETS THE ACCEPTED NATIONAL STANDARD PLUMBING CODES OF 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).

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

S 75-A. WATER TEMPERATURE MANAGEMENT STANDARDS. 1. 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.

2. 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.

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.

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

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

4. INSTALLATION OF A WATER TEMPERATURE CONTROL 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 multiple residence law is amended by adding a new section 16 to read as follows:

S 16. WATER TEMPERATURE MANAGEMENT STANDARDS. 1. NO BATHTUB, SHOWER, WASHBASIN OR SINK IN ANY DWELLING UNIT IN A MULTIPLE DWELLING OR

1 TENANT-OCCUPIED ONE-FAMILY OR TWO-FAMILY DWELLING SHALL EMIT WATER  
2 HAVING A TEMPERATURE IN EXCESS OF ONE HUNDRED TWENTY DEGREES FAHRENHEIT.

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

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

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

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

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

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

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

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

34 S 7. The general municipal law is amended by adding a new section 137  
35 to read as follows:

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

41 S 8. This act shall take effect on the one hundred eightieth day after  
42 it shall have become a law.