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

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2011-2012 Regular Sessions

I N A S S E M B L Y

January 14, 2011

Introduced by M. of A. MAGEE, BUTLER, GIGLIO -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to outdoor wood boilers

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

Section 1. Legislative intent. The legislature finds that wood is a sustainable and renewable resource and that burning clean wood for heat reduces our dependence on more costly foreign non-renewable sources of energy. The legislature further finds that responsible burning of clean wood in an outdoor wood boiler provides a reliable source of heat and hot water at a relatively low cost when compared to other energy sources. Furthermore, the legislature finds that because of the wide variation in climate, topography, community character and socio-economic conditions throughout New York state, any regulation of outdoor wood boilers that is more restrictive than that contained in this act is most appropriately left to local governments.

S 2. Article 19 of the environmental conservation law is amended by adding a new title 13 to read as follows:

TITLE 13

REGULATION OF OUTDOOR WOOD BOILERS

SECTION 19-1301. REGULATION OF OUTDOOR WOOD BOILERS.

S 19-1301. REGULATION OF OUTDOOR WOOD BOILERS.

1. DEFINITIONS. AS USED IN THIS CHAPTER THE FOLLOWING TERMS SHALL MEAN:

(A) "CLEAN WOOD" MEANS WOOD THAT HAS NOT BEEN PAINTED, STAINED, COATED, PRESERVED, OR TREATED WITH ANY PRESERVATIVE, HERBICIDE, PESTICIDE, ADHESIVE OR OTHER CHEMICAL COATING.

(B) "OTHER BIOMASS" MEANS WOOD PELLETS, CORN, OR WOOD CHIPS.

(C) "OUTDOOR WOOD BOILER" ALSO KNOWN AS "HYDRONIC HEATERS" MEANS A FUEL BURNING DEVICE THAT IS DESIGNED TO PRIMARILY BURN CLEAN WOOD, OR

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

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OTHER BIOMASS AS DEFINED IN THIS SECTION THAT IS CONSISTENT WITH THE UNIT MANUFACTURER'S RECOMMENDATIONS, AND IS TYPICALLY USED OUTDOORS OR IN BUILDINGS NOT NORMALLY OCCUPIED BY HUMANS, SUCH AS GARAGES, SHEDS OR BARNS. OUTDOOR WOOD BOILERS ARE USED TO HEAT WATER OR A WATER AND ANTI-FREEZE MIXTURE THAT IS DISTRIBUTED THROUGH PIPES GIVING OFF HEAT IN THE PROCESS.

(D) "NUISANCE" AS USED IN THIS SECTION MEANS THE OPERATION OF AN OUTDOOR WOOD BOILER IN SUCH A WAY AS TO CREATE A CONDITION THAT INTERFERES WITH THE QUIET USE AND ENJOYMENT OF NEIGHBORING PROPERTY BY THE OWNER AND/OR OCCUPANT OF SUCH PROPERTY.

2. IT SHALL BE UNLAWFUL TO OPERATE AN OUTDOOR WOOD BOILER USING ANY FUEL SOURCE OTHER THAN CLEAN WOOD OR OTHER BIOMASS THAT IS CONSISTENT WITH THE RECOMMENDATIONS OF THE MANUFACTURER OF SUCH OUTDOOR WOOD BOILER.

3. OPERATION OF AN OUTDOOR WOOD BOILER IN SUCH A WAY AS TO CREATE A CONDITION THAT INTERFERES WITH THE QUIET USE AND ENJOYMENT OF NEIGHBORING LAND BY THE OWNER OF SUCH LAND SHALL CONSTITUTE A NUISANCE AND THE VIOLATOR SHALL BE SUBJECT TO THE ENFORCEMENT ACTIONS UNDER THE NUISANCE PROVISIONS OF SECTION EIGHT HUNDRED FORTY-ONE OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW AND/OR SECTION THIRTEEN HUNDRED FOUR OF THE PUBLIC HEALTH LAW.

4. NO PERSON SHALL OFFER FOR SALE, INSTALL OR ALLOW TO BE INSTALLED ANY OUTDOOR WOOD BOILER THAT DOES NOT MEET THE STANDARDS ESTABLISHED PURSUANT TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY PHASE II VOLUNTARY PARTNERSHIP PROGRAM FOR EMISSIONS FROM OUTDOOR WOOD BOILERS OF .32 POUNDS PER MILLION BRITISH THERMAL UNITS AFTER JANUARY FIRST, TWO THOUSAND TWELVE.

5. THE DEPARTMENT SHALL PREPARE AND MAKE AVAILABLE TO THE PUBLIC GUIDANCE ON THE BEST PRACTICES TO FOLLOW INCLUDING BUT NOT LIMITED TO THE OPERATION, SITING, AND RECOMMENDED STACK HEIGHT FOR OUTDOOR WOOD BOILERS.

6. NOTHING IN THIS SECTION SHALL PRECLUDE A LOCAL GOVERNMENT FROM ENACTING MORE STRINGENT STANDARDS THAN THOSE ESTABLISHED HEREIN.

7. ANY MORE STRINGENT REGULATION OF OUTDOOR WOOD BOILERS BEYOND THAT WHICH IS CONTAINED IN THIS SECTION SHALL BE LEFT TO THE GOVERNING BODIES OF THE STATE'S CITIES, TOWNS AND VILLAGES.

S 3. This act shall take effect immediately.