

5834

2011-2012 Regular Sessions

I N A S S E M B L Y

March 2, 2011

Introduced by M. of A. KAVANAGH, BENEDETTO, DESTITO, GOTTFRIED, JEFFRIES, PHEFFER, STEVENSON -- Multi-Sponsored by -- M. of A. BOYLAND, BROOK-KRASNY, CAHILL, CALHOUN, CAMARA, COLTON, FINCH, GUNTHER, MARKEY, MAYERSOHN, McKEVITT, NOLAN, SCHIMEL, WEISENBERG -- read once and referred to the Committee on Governmental Operations

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

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

LBD04204-01-1

1 restrictions in multiple-family dwellings and one-family and two-family
2 dwelling units occupied by one or more tenants. The U.S. Consumer Prod-
3 uct Safety Commission has concluded that a safe temperature is 120
4 degrees Fahrenheit in that it would take approximately five minutes for
5 water at such temperature to cause a full thickness burn.

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

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

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

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

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

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

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

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

45 D. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
46 CONTRARY, ANY OWNER OF A RESIDENCE WHO INSTALLS AN ANTI-SCALD DEVICE
47 PURSUANT TO 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 THE DEVICE HAS BEEN TAMPERED
50 WITH OR RENDERED INOPERABLE BY THE OCCUPANTS OF SUCH RESIDENCE; OR

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

55 E. INSTALLATION OF AN ANTI-SCALD DEVICE, OR ANY WORK NECESSARY TO THE
56 INSTALLATION OF SUCH DEVICE TO COMPLY WITH THIS SECTION, SHALL NOT QUAL-

IFY 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

1 PLUMBING CODES: THE BUILDING OFFICIALS AND CODE ADMINISTRATION, INC.
2 (BOCA), THE INTERNATIONAL ASSOCIATION OF PLUMBING AND MECHANICAL OFFI-
3 CIALS (IAPMO), THE SOUTHERN BUILDING CODE CONGRESS INTERNATIONAL (SBCCI)
4 OR THE NATIONAL STANDARD PLUMBING CODE (NSPC).

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

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

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

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

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

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

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

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

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

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

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

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