

ST	BILL NO.	DOC TYPE	VERSION	LEGIS DATE
NY	HB1977	Bill Text	Introduced	1/14/2009
Relates to regulating outdoor wood-burning devices.				
RELATED BILLS				
HB 1982 - Related 2007				

STATE OF NEW YORK

1977

2009-2010 Regular Sessions

IN ASSEMBLY

January 14, 2009

Introduced by M. of A. LUPARDO, BENEDETTO, GALEF, PAULIN -- Multi-Sponsored by -- M. of A. LIFTON, MAYERSOHN, SWEENEY -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to regulating outdoor wood-burning devices in New York state

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1- 1 Section 1. Legislative findings and declarations. An outdoor wood-
1- 2 burning device is a wood-fired device located outside the primary resi-
1- 3 dential or commercial dwelling it serves, designed to transfer heat, via
1- 4 liquid, through the burning of wood to heat indoor spaces, swimming
1- 5 pools, hot tubs or other hot water uses. Unlike woodstoves, outdoor
1- 6 wood-burning devices are currently unregulated by New York state or the
1- 7 United States Environmental Protection Agency. Due to their design,
1- 8 outdoor wood-burning devices produce excessive smoke, which may have
1- 9 serious environmental and health impacts for surrounding neighbors.
1-10 Smoke from outdoor wood-burning devices contains unhealthy amounts of
1-11 particulate matter, dioxins, carbon monoxide, nitrogen dioxide, sulfur
1-12 dioxide, hydrochloric acid, formaldehyde and other toxic air pollutants.
1-13 Exposure to smoke from outdoor wood-burning devices can cause adverse
1-14 respiratory and cardiovascular symptoms, asthmatic sensitivity, lung
1-15 illnesses and cancer. Studies show that children, the elderly and indi-
1-16 viduals with pre-existing cardio-respiratory disease or diabetes are at
1-17 greater risk than the general population of developing these symptoms.
1-18 While outdoor wood-burning devices are intended to burn only natural
1-19 wood, homeowners sometimes add inappropriate materials such as yard
1-20 waste, packing materials, construction debris and even household
1-21 garbage. Burning these waste materials in an outdoor wood-burning device
1-22 can produce additional toxic air pollutants. Even when used in accord-
1-23 ance with manufacturer's recommendations, these devices frequently cause
1-24 nuisance conditions. Therefore, the purpose of this act is to ensure the

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

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A. 1977

2

2- 1 proper siting, operation and performance of outdoor wood-burning devices
2- 2 in order to protect public health and the environment.

2- 3 § 2. Article 19 of the environmental conservation law is amended by
2- 4 adding a new title 13 to read as follows:

2- 5 TITLE 13
2- 6 OUTDOOR WOOD-BURNING DEVICES

2- 7 Section 19-1301. Definitions.
2- 8 19-1303. Outdoor wood-burning devices requirements.
2- 9 19-1305. Regulations.

2-10 § 19-1301. Definitions.
2-11 As used in this title:

2-12 1. "Outdoor wood-burning device" shall mean a device located outside a
2-13 residential or commercial building it serves, designed to transfer heat,
2-14 via liquid, through the burning of wood to heat indoor spaces, swimming
2-15 pools, hot tubs or other hot water uses. Outdoor wood-burning devices do
2-16 not include fire pits or wood-fired barbecues.

2-17 2. "Natural wood" shall mean trees including logs, boles, trunks,
2-18 branches, limbs, and stumps.

2-19 3. "Residence" shall mean a building or structure which is a primary
2-20 or secondary home of one or more persons.

2-21 4. "Municipality" shall mean a village, town, city or county or any
2-22 designated agency thereof.

2-23 5. "Farm woodland" shall mean land used for the production for sale of
2-24 woodland products including but not limited to logs, lumber, posts and
2-25 firewood.

2-26 6. "Land used in agricultural production" shall mean not less than
2-27 seven acres of land used as a single operation for the production for
2-28 sale of crops, livestock or livestock products of an average gross sales
2-29 value of ten thousand dollars or more.

2-30 § 19-1303. Outdoor wood-burning devices requirements.

2-31 1. No person shall construct, install, modify, operate or use an
2-32 outdoor wood-burning device, unless such device complies with the
2-33 following:

2-34 (a) Outdoor wood-burning devices shall not be operated between May
2-35 first and September thirtieth; provided, however, outdoor wood-burning
2-36 devices operated on land used in agricultural production or farm wood-
2-37 land shall be exempt from this subdivision;

2-38 (b) An outdoor wood-burning device shall not be installed or operated
2-39 within seven hundred feet from the occupied building of a hospital,
2-40 school, daycare center or nursing home or from the boundary of a munici-
2-41 pal park or recreational facility;

2-42 (c) An outdoor wood-burning device shall not be installed or operated
2-43 within two hundred feet from the nearest residence not served by an
2-44 outdoor wood-burning device;

2-45 (d) Only natural wood including, but not limited to, wood that has not
2-46 been painted, stained, chemically treated, laminated or glued may be
2-47 burned in an outdoor wood-burning device;

2-48 (e) The installation of a chimney of an outdoor wood-burning device
2-49 must be in accordance with applicable building ordinances;

2-50 (f) The installation and operation of an outdoor wood-burning device
2-51 must be in accordance with the manufacturer's written instructions and
2-52 in compliance with local ordinances;

2-53 (g) Dealers and sellers of outdoor wood-burning devices are required
2-54 to provide buyers a written notice stating that only natural wood that
2-55 has not been painted, stained, chemically treated, laminated or glued

A. 1977 3

3- 1 may be burned and household or other waste must not be burned in the
3- 2 device; and

3- 3 (h) Devices that comply with the standards for particulate matter

3- 4 emissions promulgated pursuant to section 19-1305 of this title shall be
3- 5 exempt from the siting requirements set forth in paragraphs (a), (b) and
3- 6 (c) of this subdivision.

3- 7 2. The commissioner shall establish and publish, in consultation with
3- 8 the commissioner of health, educational materials explaining the health
3- 9 and environmental hazards of outdoor wood-burning devices.

3-10 3. The provisions set forth in subdivision one of this section shall
3-11 not prevent any municipality enacting a local law or ordinance from
3-12 banning or regulating outdoor wood-burning devices for residential,
3-13 commercial or industrial use provided, however, that such local law or
3-14 ordinance is no less stringent than the provisions of this title.

3-15 § 19-1305. Regulations.

3-16 1. On or before January first, two thousand ten, the department shall
3-17 promulgate test methods for the measurement of particulate matter in
3-18 order to determine compliance with emissions standards. By April first,
3-19 two thousand ten, the commissioner, in consultation with the commis-
3-20 sioner of health, shall also promulgate standards for particulate matter
3-21 emissions necessary to ensure protection of public health and the envi-
3-22 ronment. These standards shall be no less stringent than the federal
3-23 particulate matter standard applicable to indoor wood stoves, found at
3-24 40 C.F.R. §60.530 through 40 C.F.R. §60.539b, as amended. Unless the
3-25 department promulgates such standards by April first, two thousand ten,
3-26 the federal woodstove standard is hereby incorporated into this title
3-27 and shall be applicable to all outdoor wood-burning devices sold or
3-28 operated in the state.

3-29 2. No person shall sell, install or operate an outdoor wood-burning
3-30 device on or after June first, two thousand eleven unless such device
3-31 meets the requirements of this section. Provided, however, that outdoor
3-32 wood-burning devices that are installed and in use on or before the
3-33 effective date of this section shall not be subject to the requirements
3-34 of this section until June first, two thousand twelve.

3-35 § 3. The environmental conservation law is amended by adding a new
3-36 section 71-2114 to read as follows:

3-37 § 71-2114. Violations of title 13 of article 19 of this chapter.

3-38 1. Any person operating an outdoor wood-burning device in violation of
3-39 section 19-1303 of this chapter shall be issued a warning for the first
3-40 offense and shall be provided with educational material produced pursu-
3-41 ant to subdivision two of section 19-1303 of this chapter and be warned
3-42 that future violations shall result in civil penalties. Any person
3-43 convicted of a second violation of the provisions of section 19-1303 of
3-44 this chapter shall be punished by a civil penalty of up to seventy-five
3-45 dollars. Any person convicted of a third or subsequent violation of the
3-46 provisions of section 19-1303 of this chapter shall be punished by a
3-47 civil penalty of not less than one hundred dollars nor more than two
3-48 hundred fifty dollars.

3-49 2. Any person who sells an outdoor wood-burning device within the
3-50 state in violation of title 13 of article 19 of this chapter shall be
3-51 subject to a civil penalty of up to one hundred dollars. Subsequent
3-52 offenses are subject to a civil penalty of not less than two hundred
3-53 fifty dollars.

3-54 § 4. This act shall take effect immediately.