



Senate

General Assembly

File No. 496

January Session, 2013

Substitute Senate Bill No. 1134

Senate, April 15, 2013

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING OUTDOOR WOOD-BURNING FURNACES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-174k of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) For purposes of this section: [.] (1) "Clean wood" means wood
4 that does not contain a coating of any kind of paint or stain and that is
5 not treated with any fire retardant, pesticide, preservative or any other
6 chemical treatment. "Clean wood" includes any wood pellet that is
7 authorized by law to be sold in the state; and (2) "outdoor wood-
8 burning furnace" means an accessory structure or appliance, including,
9 but not limited to, any outdoor wood-burning boiler and any hydronic
10 heater designed to be located outside living space ordinarily used for
11 human habitation and designed to transfer or provide heat, via liquid
12 or other means, through the burning of wood or solid waste, for
13 heating spaces other than where such structure or appliance is located,
14 any other structure or appliance on the premises, or for heating
15 domestic, swimming pool, hot tub or jacuzzi water. "Outdoor wood-

16 burning furnace" does not include a fire pit, wood-fired barbecue or
17 chiminea.

18 (b) [No] (1) On and after October 1, 2013, no person shall [, from
19 July 8, 2005, to the effective date of regulations promulgated by the
20 United States Environmental Protection Agency to regulate outdoor
21 wood-burning furnaces,] construct, install, establish, modify, operate
22 or use an outdoor wood-burning furnace, unless [(1) the outdoor
23 wood-burning furnace was constructed, installed, established,
24 modified, operated or in use prior to July 8, 2005, or (2) the] such
25 outdoor wood-burning furnace complies with the following:

26 (A) Installation of the outdoor wood-burning furnace [is] places the
27 chimney of such furnace not less than two hundred feet from the
28 nearest residence not serviced by the outdoor wood-burning furnace;

29 (B) Installation of the chimney of the outdoor wood-burning furnace
30 is at a height that is more than the height of the roof peaks of the
31 residences that are located within five hundred feet of the outdoor
32 wood-burning furnace, which residences are not serviced by the
33 outdoor wood-burning furnace, provided the chimney height is not
34 more than fifty-five feet;

35 (C) No other materials are burned in the outdoor wood-burning
36 furnace other than [wood that has not been chemically treated] clean
37 wood; and

38 (D) Installation and operation of the outdoor wood-burning furnace
39 is in accordance with the manufacturer's written instructions, provided
40 such instructions do not conflict with the provisions of this section.

41 (2) Any owner or operator of an outdoor wood-burning furnace
42 who provides evidence to the Commissioner of Energy and
43 Environmental Protection that reasonably demonstrates that such
44 outdoor wood-burning furnace was installed prior to July 8, 2005, shall
45 not be subject to the requirements contained in subparagraphs (A) and
46 (B) of subdivision (1) of this subsection.

47 [(c) The provisions of this section shall be enforced by the
48 Commissioner of Energy and Environmental Protection and may be
49 enforced by the municipality affected by the operation or potential
50 operation of an outdoor wood-burning furnace.]

51 (c) On and after October 1, 2013, no person shall sell or offer for sale
52 any outdoor wood-burning furnace unless such furnace complies with
53 the United States Environmental Agency's Voluntary Phase 2
54 Standards for outdoor wood-burning furnaces.

55 (d) The Commissioner of Energy and Environmental Protection, the
56 Commissioner of Public Health, or a local director of public health may
57 order the owner or operator of any outdoor wood-burning furnace to
58 remove, render permanently inoperable or discontinue the use of any
59 furnace that does not comply with the requirements of subsection (b)
60 of this section.

61 (e) On or before October 1, 2014, the Commissioner of Agriculture,
62 in conjunction with the Commissioner of Energy and Environmental
63 Protection, shall conduct a survey to identify the number and location
64 of outdoor wood-burning furnaces installed or operational in the state
65 as of October 1, 2013. On or before October 1, 2014, the Commissioners
66 of Agriculture and Energy and Environmental Protection shall report,
67 in accordance with the provisions of section 11-4a, to the Governor and
68 the joint standing committee of the General Assembly having
69 cognizance of matters relating to the environment on the results of
70 such survey.

71 (f) Nothing in this section shall be construed to preclude the
72 Commissioner of Public Health, or any local or regional health officer,
73 from issuing any order to abate air pollution from an outdoor wood-
74 burning furnace that said commissioner or such health officer deems to
75 be a nuisance.

76 [(d)] (g) Any person who operates an outdoor wood-burning
77 furnace in violation of this section shall be deemed to have committed
78 an infraction and shall be fined not more than ninety dollars. Each day

79 of operation of such outdoor wood-burning furnace in violation of this
80 section shall be a separate violation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	22a-174k

ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Public Health, Dept.	GF - Potential Cost	26,028	32,443
State Comptroller - Fringe Benefits ¹	GF - Potential Cost	8,291	10,819

Municipal Impact: None

Explanation

The bill requires the Department of Agriculture (DAG) to conduct a survey to identify the number and location of outdoor wood-burning furnaces installed or operational as of October 1, 2013. There is no fiscal impact for DAG to conduct this survey.

If the Department of Public Health (DPH) chose to enforce outdoor wood-burning furnace provisions under the bill, it would incur a cost of \$26,028 in FY 14 and \$32,443 in FY 15 and the State Comptroller - Fringe Benefits would incur related costs of \$8,291 in FY 14 and \$10,819 in FY 15. These costs reflect a half-time Epidemiologist II position under DPH with a 10/1/3 start date,² other expenses including mileage reimbursement for statewide travel and general office supplies and a one-time equipment cost for a computer in FY 14. Fringe benefit costs for this position are paid out of the State Comptroller - Fringe

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 34.54% of payroll in FY 14 and FY 15.

²DPH staff does not have any responsibilities regarding enforcement of wood-burning furnace provisions currently. Costs are reflected as potential as the bill is permissive.

Benefits. DPH may chose not to enforce wood-burning furnace provisions and would, therefore, not incur associated costs to do so, nor would fringe benefit costs be needed under the State Comptroller - Fringe Benefits.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation should DPH chose to enforce wood-burning furnace provisions.

OLR Bill Analysis

sSB 1134

AN ACT CONCERNING OUTDOOR WOOD-BURNING FURNACES.

SUMMARY:

This bill makes several changes to the outdoor wood-burning furnace law. Among other things, it:

1. specifies that the law applies to outdoor wood-burning boilers and hydronic heaters,
2. makes permanent the ban on outdoor wood-burning furnaces that do not meet certain requirements,
3. exempts outdoor wood-burning furnaces installed before July 8, 2005 from the chimney installation height and location requirements,
4. requires all outdoor wood-burning furnaces to burn only clean wood,
5. prohibits selling or offering for sale outdoor wood-burning furnaces unless they meet certain emissions standards, and
6. allows the Department of Energy and Environmental Protection (DEEP) and Department of Public Health (DPH) commissioners and local or regional public health directors to enforce the outdoor wood-burning furnace law.

The bill also requires the Department of Agriculture (DOAG) commissioner, in consultation with the DEEP commissioner, to conduct a survey of the number and location of outdoor wood-burning furnaces in the state. The commissioners must report on the survey's results to the governor and the Environment Committee.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2013

OUTDOOR WOOD-BURNING FURNACE DEFINITION

By law, an outdoor wood-burning furnace is an accessory structure or appliance designed to (1) be located outside living space ordinarily used for human habitation and (2) transfer or provide heat, through liquid or other means, by burning wood or solid waste for heating (a) spaces other than where the furnace is located; (b) any other structure or appliance on the premises; or (c) domestic water or water used in a swimming pool, hot tub, or jacuzzi. It excludes fire pits, wood-fired barbecues, or chimineas. The bill specifies that these furnaces include outdoor wood-burning boilers and hydronic heaters (systems that heat and pipe water to nearby buildings).

OPERATION REQUIREMENTS

Current law prohibits people from constructing, installing, establishing, modifying, operating, or using an outdoor wood-burning furnace until the U.S. Environmental Protection Agency (EPA) regulations governing these furnaces take effect (none have been adopted) unless it was built or in use before July 8, 2005 or:

1. is installed at least 200 feet from the nearest home not serviced by it;
2. has a chimney higher than the roof peaks of homes not serviced by it within 500 feet of the furnace, but no higher than 55 feet;
3. burns only non-chemically treated wood; and
4. is installed and operated according to the manufacturer's written instructions, provided the instructions comply with the law.

Under current law, these restrictions terminate if federal regulations take effect. The bill makes these restrictions permanent and modifies some of them.

Under the bill, installed outdoor wood-burning furnaces must have the chimney, not the furnace, placed at least 200 feet from the nearest home not serviced by it.

The bill also broadens the types of wood prohibited from being burned by these furnaces. It requires burning “clean wood,” as opposed to only non-chemically treated wood. It thus prohibits burning wood that has a paint or stain coating or is treated with a fire-retardant, pesticide, preservative, or other chemical treatment. The bill permits burning wood pellets allowed by law to be sold in Connecticut.

Additionally, the bill exempts an outdoor wood-burning furnace from the chimney height and location installation requirements, but not the other requirements, if its owner or operator provides evidence to the DEEP commissioner that reasonably demonstrates it was installed before July 8, 2005.

SALES PROHIBITION

Beginning October 1, 2013, all outdoor wood-burning furnaces sold or offered for sale must comply with EPA’s Voluntary Phase 2 standards for these furnaces (see BACKGROUND).

ENFORCEMENT

Under current law, the DEEP commissioner enforces the outdoor wood-burning furnace law. Municipalities affected by such furnaces’ operation or potential operation may also enforce it.

The bill instead specifies that the DEEP or DPH commissioners, or a local public health director, may order an outdoor wood-burning furnace owner or operator to remove, make permanently inoperable, or stop using a furnace that does not meet the bill’s installation and operation requirements.

The bill also specifies that it does not prevent the DPH commissioner or a local or regional health officer from issuing an order to abate air pollution from an outdoor wood-burning furnace they

determine is a nuisance.

By law, a violation of the outdoor wood-burning furnace law is an infraction, and violators are subject to a fine of up to \$90. Each day of operating a furnace in violation of the law is a separate violation.

SURVEY

The bill requires the DOAG commissioner to conduct a survey to identify the number and location of outdoor wood-burning furnaces installed or operational in Connecticut as of October 1, 2013. He must do this by October 1, 2014 in conjunction with the DEEP commissioner. By the same date, the commissioners must report the survey's results to the governor and the Environment Committee.

BACKGROUND

Emissions Standards

While indoor wood stoves must meet EPA-certified emissions levels, outdoor wood-burning furnaces are not required to meet a federal emission standard. In 2007, EPA began a voluntary partnership with manufacturers to design and market cleaner, more efficient furnaces. The furnaces are certified and labeled to meet EPA emissions performance levels in two phases: Phase 1 emissions levels of 0.60 pounds of particulate matter per million British thermal units (BTUs) of heat output and Phase 2 emissions levels of 0.32 pounds of particulate matter per million BTUs of heat output.

Nuisance Abatement

Under DPH regulations, local health directors must investigate a nuisance or pollution when they are informed of it or it comes to their attention. If they find the nuisance or pollution exists, they must issue a written abatement order. The order must (1) specify the nature of the nuisance or pollution and (2) designate the time to abate or discontinue it. If the order is not complied with, the local health director must submit the information to the prosecutor (Conn. Agency Regs. § 19-13-B2).

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 24 Nay 5 (03/27/2013)