

Senate Bill No. 79

(By Senators Foster and Klempa)

[Introduced January 13, 2011; referred to the Committee on the
Judiciary.]

10 A BILL to amend the Code of West Virginia, 1931, as amended, by
11 adding thereto a new article, designated §47-5A-1, §47-5A-2,
12 §47-5A-3, §47-5A-4, §47-5A-5, §47-5A-6, §47-5A-7 and §47-5A-8,
13 all relating to safety features of residential hot water
14 heaters.

15 *Be it enacted by the Legislature of West Virginia:*

16 That the Code of West Virginia, 1931, as amended, be amended
17 by adding thereto a new article, designated §47-5A-1, §47-5A-2,
18 §47-5A-3, §47-5A-4, §47-5A-5, §47-5A-6, §47-5A-7 and §47-5A-8, all
19 to read as follows:

20 **ARTICLE 5A. SAFETY FEATURES OF HOT WATER HEATERS.**

21 **§47-5A-1. Purpose of article.**

22 The purpose of this article is to protect individuals,
23 especially high risk individuals such as children five years of age
24 or younger, from being burned by scalding water as a result of

1 water temperatures in residential hot water heaters.

2 **§47-5A-2. Definitions.**

3 For purposes of this article:

4 (a) "Water heater" means the primary source of hot water for
5 any single-family or multifamily residential dwelling or units
6 including, but not limited to, a solar or other hot water heating
7 systems.

8 (b) "Installer" means those persons who or which install water
9 heaters.

10 (c) "Manufacturer" means a person who manufactures water
11 heaters.

12 (d) "Person" means persons, partnerships, corporations,
13 contractors, subcontractors and associations.

14 (e) "Residential" means a dwelling intended for occupancy by
15 an individual, single-family or multifamily or an item intended for
16 use in such dwellings.

17 **§47-5A-3. Thermostat settings.**

18 (a) The thermostat of any new residential water heater offered
19 for sale or lease in the state shall be preset by the manufacturer
20 or installer no higher than 120 degrees Fahrenheit.

21 (b) The temperature of a water heating reservoir may be set
22 higher if the reservoir is supplying space heaters that require
23 higher temperatures.

24 **§47-5A-4. Warning notice.**

1 (a) A warning tag or sticker must be placed on or near the
2 operating thermostat of a new residential water heater stating that
3 thermostat settings above the preset temperature may cause severe
4 burns.

5 (b) The warning tag or sticker may carry such other
6 appropriate warnings as may be agreed upon by manufacturers,
7 installers and other interested parties.

8 **§47-5A-5. Control of thermostat settings by occupant; relief from**
9 **liability.**

10 (a) Nothing in this article prohibits the occupant of a
11 residential dwelling with an individual water heater from resetting
12 or having reset the thermostat on the water heater.

13 (b) Resetting performed by or at the direction of the occupant
14 relieves the manufacturer or installer of the water heater and, in
15 the case of a residential dwelling that is leased or rented, also
16 the unit's owner, from liability for damages attributed to the
17 resetting.

18 **§47-5A-6. Nonliability of employees.**

19 No liability is created under this article for employees of
20 persons responsible for the manufacturing and installing of water
21 heaters.

22 **§47-5A-7. Violations; penalties.**

23 A person who violates a provision of this article is guilty of
24 a misdemeanor and, upon conviction thereof, shall be fined not less

1 than \$50 nor more than \$500, or imprisoned in jail not more than
2 thirty days, or both fined and imprisoned.

3 **§47-5A-8. Effective date.**

4 This article takes effect on July 1, 2011, and applies to all
5 hot water heaters installed on and after this date.

NOTE: The purpose of this article is to require safety features on all new residential hot water heaters.

This article is new; therefore, strike-throughs and underscoring have been omitted.