INTRODUCED BY THOMAS, O'MARA, BENHAM, BRADFORD, BRIGGS, BULLOCK, CIRESI, DALEY, T. DAVIS, FRANKEL, GALLOWAY, HANBIDGE, HENNESSEY, HERRIN, HILL-EVANS, HOWARD, INNAMORATO, ISAACSON, KINSEY, MALAGARI, MENTZER, N. NELSON, OTTEN, SANCHEZ, SAPPEY, SCHLOSSBERG, SHUSTERMAN, SIMS, STEPHENS, STURLA, VITALI, WARREN, WEBSTER AND ZABEL, APRIL 15, 2021

REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, APRIL 15, 2021

AN ACT

Amending Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes, in public utility code, providing for minimum energy and water efficiency standards for certain products sold in this Commonwealth.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Part I of Title 66 of the Pennsylvania Consolidated Statutes is amended by adding a chapter to read:

CHAPTER 34

MINIMUM ENERGY AND WATER EFFICIENCY STANDARDS FOR CERTAIN PRODUCTS SOLD IN THIS COMMONWEALTH

Sec.

3401. Short title of chapter.

3402. General purpose, legislative findings and scope of chapter.

3403. Definitions.

3404. Standards.
§ 3401. Short title of chapter.

This chapter shall be known and may be cited as the Pennsylvania Energy and Water Efficiency Standards Act.

§ 3402. General purpose, legislative findings and scope of chapter.

(a) General purpose.--This chapter establishes minimum efficiency standards for certain products sold or installed in this Commonwealth.

(b) Legislative findings.--The legislature finds that:

(1) Efficiency standards for certain products sold or installed in this Commonwealth assure consumers and businesses that the products meet minimum efficiency performance levels, resulting in reduced energy and water waste and saving consumers and businesses money on utility bills.

(2) Efficiency standards contribute to the economy of this Commonwealth by helping to better balance supply and demand for both energy and water, resulting in reduced pressure that creates higher natural gas, electricity and water prices. By saving consumers and businesses money on utility bills, efficiency standards help the Commonwealth and local economy save on utility bills that can be spent on local goods and services.

(3) The efficiency standards save energy and thus reduce pollution and other environmental impacts associated with the production, distribution and use of electricity, natural gas,
and other fuels.

(4) The water efficiency standards save water and thus reduce the strain on the water supply. Improved water efficiency can reduce or delay the need for water and sewer infrastructure improvements.

(5) The efficiency standards can make electricity and natural gas systems more reliable by reducing the strain on systems during peak demand periods. Improved efficiency can reduce or delay the need for new power plants, power transmission lines and power distribution system upgrades as well as new and expanded gas pipelines.

(c) Scope.--The provisions of this chapter apply to:

(1) Air purifiers.
(2) Commercial dishwashers.
(3) Commercial fryers.
(4) Commercial hot-food holding cabinets.
(5) Commercial ovens.
(6) Commercial steam cookers.
(7) Electric vehicle supply equipment
(8) Faucets.
(9) High CRI, cold-temperature and impact-resistant fluorescent lamps.
(10) Portable electric spas.
(11) Residential ventilating fans.
(12) Showerheads.
(13) Spray sprinkler bodies.
(14) State-regulated general service lamps.
(15) Urinals.
(16) Water closets.
(17) Water coolers.
(18) Any other products as may be designated by the
chairperson in accordance with this section or by operation
of law under section 3408 (relating to testing,
certification, labeling and enforcement).

(d) Limitation.—Nothing in this chapter shall be construed
to apply to:

(1) New products manufactured in this Commonwealth and
sold outside of this Commonwealth.

(2) New products manufactured outside this Commonwealth
and sold at wholesale inside this Commonwealth for final
retail sale and installation outside this Commonwealth.

(3) Products installed in mobile manufactured homes at
the time of construction.

(4) Products designed expressly for installation and use
in recreational vehicles.

§ 3403. Definitions.

The following words and phrases when used in this chapter
shall have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Air purifier" or "room air cleaner." An electric, cord-
connected portable appliance with the primary function of
removing particulate matter from the air and which can be moved
from room to room.

"Chairperson." The chairperson of the Pennsylvania Public
Utility Commission.

"Cold-only units." A water dispenser that emits cold water
only.

"Cold-temperature fluorescent lamp." A fluorescent lamp that
is not a compact fluorescent lamp that:

(1) is specifically designed to start at -20°F when used
with a ballast conforming to the requirements of ANSI C78.81
and ANSI C78.901; and

(2) is expressly designated as a cold-temperature lamp
both in markings on the lamp and in marketing materials,
including catalogs, sales literature and promotional
material.

"Commercial dishwasher." A machine designed to clean and
sanitize plates, pots, pans, glasses, cups, bowls, utensils and
trays by applying sprays of detergent solution, with or without
blasting media granules, and a sanitizing rinse.

"Commercial fryer." An appliance, including a cooking
vessel, in which oil is placed to such a depth that the cooking
food is essentially supported by displacement of the cooking
fluid rather than by the bottom of the vessel. Heat is delivered
to the cooking fluid by means of an immersed electric element of
band-wrapped vessel or by heat transfer from gas burners through
either the walls of the fryer or through tubes passing through
the cooking fluid.

"Commercial hot-food holding cabinet." A heated, fully
enclosed compartment with one or more solid or transparent
doors, designed to maintain the temperature of hot food that has
been cooked using a separate appliance. The term does not
include heated glass merchandizing cabinets, drawer warmers or
cook-and-hold appliances.

"Commercial oven." A chamber designed for heating, roasting
or baking food by conduction, convection, radiation or
electromagnetic energy.

"Commercial steam cooker" or "compartment steamer." A device
with one or more food-steaming compartments in which the energy
in the steam is transferred to the food by direct contact. The
term may include countertop models, wall-mounted models and
floor models mounted on a stand, pedestal or cabinet-style base.

"Compensation." Money or any other source of value,
regardless of form, received or to be received by a person for
services rendered.

"Cook and cold units." A water dispenser that emits both
cold and room-temperature water.

"Dual-flush effective flush volume." The average flush
volume of two reduced flushes and one full flush.

"Dual-flush water closet." A water closet incorporating a
feature that allows the user to flush the water closet with
either a reduced or full volume of water.

"Electric vehicle supply equipment." The conductors,
including the ungrounded, grounded and equipment-grounding
conductors, electric vehicle connectors, attachment plugs, and
all other fittings, devices, power outlets or apparatuses
installed specifically for the purpose of delivering energy from
the premises wiring to the electric vehicle. Charging cords with
NEMA 5-15P and NEMA 5-20P attachment plugs are considered
electric vehicle supply equipment. The term does not include
conductors, connectors and fittings that are part of a vehicle.

"EPA." The United States Environmental Protection Agency.

"Faucet." A lavatory faucet, kitchen faucet, metering
faucet, public lavatory faucet or replacement aerator for a
lavatory, public lavatory or kitchen faucet.

"Hand-held showerhead." A showerhead that can be held or
fixed in place for the purpose of spraying water onto a bather
and that is connected to a flexible hose.

"High color rendering index (CRI) fluorescent lamp." A
fluorescent lamp with a color rendering index of 87 or greater.
that is not a compact fluorescent lamp.

"Hot and cold units." A water dispenser that emits both hot
and cold water. The term includes a dispenser that emits room-
temperature water.

"Impact-resistant fluorescent lamp." A fluorescent lamp that
is not a compact fluorescent lamp that:

(1) has a coating or equivalent technology that is
compliant with NSF/ANSI 51 and is designed to contain the
glass if the glass envelope of the lamp is broken; and

(2) is designated and marketed for the intended
application with:

(i) the designation on the lamp packaging; and

(ii) marketing materials that identify the lamp as
being impact resistant, shatter resistant, shatter proof
or shatter protected.

"Industrial air purifier." An indoor air cleaning device
manufactured, advertised, marketed, labeled and used solely for
industrial use that is marketed solely through industrial supply
outlets or businesses and prominently labeled as "Solely for
industrial use. Potential health hazard: emits ozone."

"Metering faucet." A fitting that, when turned on, will
gradually shut itself off over a period of several seconds.

"On demand." The heating of water in a water cooler over an
unspecified period of time after requesting water.

"Plumbing fixture." An exchangeable device that connects to
a plumbing system to deliver and drain away water and waste.

"Portable electric spa." A factory-built electric spa or hot
tub that may or may not include any combination of integral
controls, water heating or water circulating equipment.

"Pressure regulator." A device that maintains constant
operating pressure immediately downstream from the device, given
higher pressure upstream.

"Public lavatory faucet." A fitting intended to be installed
in nonresidential bathrooms that are exposed to walk-in traffic.

"Replacement aerator." An aerator sold as a replacement,
separate from the faucet to which it is intended to be attached.

"Residential ventilating fan." A ceiling-mounted or wall-
mounted fan or remotely mounted in-line fan designed to be used
in a bathroom or utility room, whose purpose is to move air from
inside the building to the outdoors.

"Showerhead." A device through which water is discharged for
a shower bath. The term includes a hand-held showerhead but does
not include a safety-shower showerhead.

"Spray sprinkler body." The exterior case or shell of a
sprinkler incorporating a means of connection to the piping
system designed to convey water to a nozzle or orifice.

"State-regulated general service lamp." Any of the following
medium-based incandescent light bulbs:

(1) Reflector lamps that are:
   (i) ER30, BR30, BR40 or ER40 lamps rated at 50 watts
   or less;
   (ii) BR30, BR40 or ER40 lamps rated at 65 watts; or
   (iii) R20 lamps rated at 45 watts or less.

(2) B, BA, CA, F and G shape lamps as defined in ANSI
C79.1:2002 with a lumen output of greater than or equal to
200 and rated at 40 watts or less.

(3) A and C shape lamps as defined in ANSI C79.1:2002
with lumen output greater than or equal to 200 and less than
310.

(4) Shatter-resistant lamps.
(5) Three-way lamps.

"Storage type." The storage of thermally conditioned water in a reservoir in the water cooler that is available instantaneously. The term includes point-of-use, dry storage compartment and bottled water coolers.

"Trough-type urinal." A urinal designed for simultaneous use by two or more individuals.

"Urinal." A plumbing fixture that receives only liquid body waste and conveys the waste through a trap into a drainage system.

"Water closet." A plumbing fixture having a water-containing receptor that receives liquid and solid body waste through an exposed integral trap into a drainage system.

"Water cooler." A freestanding device that consumes energy to cool or heat potable water.

§ 3404. Standards.

(a) Regulations.--Not later than one year after the effective date of this section, the chairperson, in consultation with the Secretary of Environmental Protection, shall promulgate regulations, in accordance with the provisions of section 502 of the act of June 28, 1995 (P.L.89, No.18), known as the Conservation and Natural Resources Act, establishing minimum efficiency standards for the types of new products set forth in section 3402 (relating to general purpose, legislative findings and scope of chapter).

(b) Minimum standards.--The regulations shall provide for the following minimum efficiency standards:

(1) Air purifiers, except industrial air purifiers, shall meet the following requirements as measured in accordance with version 2.0 of the EPA's "Energy Star Program...
Requirements Product Specification for Room Air Cleaners:

(i) clean air delivery rate (CADR) for dust shall be 30 or greater;

(ii) for models with a CADR for smoke less than 100, CADR/Watt for smoke shall be greater than or equal to 1.7;

(iii) for models with a CADR for smoke greater than or equal to 100 and less than 150, CADR/Watt for smoke shall be greater than or equal to 1.9;

(iv) for models with a CADR for smoke greater than or equal to 150, CADR/Watt for smoke shall be greater than or equal to 2.0;

(v) for ozone-emitting models, measured ozone shall be less than or equal to 50 parts per billion (ppb);

(vi) for models with a Wi-Fi network connection enabled by default when shipped, partial on-mode power shall not exceed 2 watts; and

(vii) for models without a Wi-Fi network connection enabled by default when shipped, partial on-mode power shall not exceed 1 watt.

(2) Commercial dishwashers included in the scope of version 2.0 of the EPA's "Energy Star Program Requirements Product Specification for Commercial Dishwashers" shall meet the qualification criteria of that specification.

(3) Commercial fryers included in the scope of version 2.0 of the EPA's "Energy Star Program Requirements Product Specification for Commercial Fryers" shall meet the qualification criteria of that specification.

(4) Commercial hot-food holding cabinets shall meet the qualification criteria of version 2.0 of the EPA's "Energy
Star Program Requirements Product Specification for Commercial Hot Food Holding Cabinets."

(5) Commercial ovens included in the scope of version 2.2 of the EPA's "Energy Star Program Requirements Product Specification for Commercial Ovens" shall meet the qualification criteria of that specification.

(6) Commercial steam cookers shall meet the requirements of version 1.2 of the EPA's "Energy Star Program Requirements Product Specification for Commercial Steam Cookers."

(7) Electric vehicle supply equipment included in the scope of the ENERGY STAR Program Requirements Product Specification for Electric Vehicle Supply Equipment, Version 1.0 (Rev. Apr-2017), shall meet the qualification criteria of that specification.

(8) Faucets, except for metering faucets, shall meet the following standards when tested in accordance with 10 CFR Pt. 430 Appendix S to Subpt. B (relating to uniform test method for measuring the water consumption of faucets and showerheads) in effect on January 1, 2021:

(i) Lavatory faucets and replacement aerators may not exceed a maximum flow rate of 1.5 gallons per minute (gpm) at 60 pounds per square inch (psi).

(ii) Residential kitchen faucets and replacement aerators may not exceed a maximum flow rate of 1.8 gpm at 60 psi, with optional temporary flow of 2.2 gpm, provided they default to a maximum flow rate of 1.8 gpm at 60 psi after each use.

(iii) Public lavatory faucets and replacement aerators may not exceed a maximum flow rate of 0.5 gpm at 60 psi.
(9) High CRI, cold-temperature and impact-resistant fluorescent lamps shall meet the minimum efficiency requirements contained in 10 CFR 430.32(n)(4) (relating to energy and water conservation standards and their compliance dates) in effect on January 1, 2021, as measured in accordance with 10 CFR Pt. 430 Appendix R to Subpt. B (relating to uniform test method for measuring average lamp efficacy (LE), color rendering index (CRI), and correlated color temperature (CCT) of electric lamps) in effect on January 1, 2021.

(10) Portable electric spas shall meet the requirements contained in ANSI/APSP/ICC-14-2019, the American National Standard for Portable Electric Spa Energy Efficiency.

(11) In-line residential ventilating fans shall have a fan motor efficacy of no less than 2.8 cubic feet per minute per watt. All other residential ventilating fans shall have a fan motor efficacy of no less than 1.4 cubic feet per minute per watt for airflows less than 90 cubic feet per minute and no less than 2.8 cubic feet per minute per watt for other airflows when tested in accordance with Home Ventilation Institute Publication 916 "HVI Airflow Test Procedure."

(12) Showerheads may not exceed a maximum flow rate of 2.0 gpm at 80 psi when tested in accordance with 10 CFR Pt. 430 Appendix S to Subpt. B in effect on January 1, 2021.

(13) Spray sprinkler bodies that are not specifically excluded from the scope of version 1.0 of the EPA's "WaterSense Specification for Spray Sprinkler Bodies," shall include an integral pressure regulator and shall meet the water efficiency and performance criteria and other requirements of that specification.
(14) State-regulated general service lamps shall meet or exceed the lamp efficacy of 45 lumens per watt when testing in accordance with the applicable Federal test procedures for general service lamps under 10 CFR 430.23(gg) (relating to test procedures for the measurement of energy and water consumption) in effect on January 1, 2021.

(15) Water closets shall pass the waste extraction test for water closets under section 7.9 of the American Society of Mechanical Engineers (ASME) contained in A112.19.2/CSA B45.1 of 2018. Urinals and water closets, other than those designed and marketed exclusively for use at prisons or mental health facilities, shall meet the following standards when tested in accordance with 10 CFR Pt. 430 Appendix T to Subpt. B (relating to uniform test method for measuring the water consumption of water closets and urinals) in effect on January 1, 2021:

(i) Wall-mounted urinals, except for trough-type urinals, shall have a maximum flush volume of 0.5 gallons per flush.

(ii) Floor-mounted urinals, except for trough-type urinals, shall have a maximum flush volume of 0.5 gallons per flush.

(iii) Water closets, except for dual-flush tank-type water closets, shall have a maximum flush volume of 1.28 gallons per flush.

(iv) Dual-flush tank-type water closets shall have a maximum dual-flush effective flush volume of 1.28 gallons per flush.

(16) Water coolers included in the scope of the EPA's version 2.0 "Energy Star Program Requirements Product
Specification for Water Coolers" shall have an on mode with no water draw and energy consumption less than or equal to the following values as measured in accordance with the test requirements of that program:

(i) 0.16 kilowatt-hours per day for cold-only units and cook and cold units;

(ii) 0.87 kilowatt-hours per day for storage-type hot and cold units; and

(iii) 0.18 kilowatt-hours per day for on-demand hot and cold units.

§ 3405. Implementation.

(a) Requirement of efficiency.--Except as provided in subsection (b), on or after January 1, 2023, no new device listed under section 3402(c) (relating to general purpose, legislative findings and scope of chapter) may be sold or offered for sale, lease or rent in this Commonwealth unless the efficiency of the new product meets or exceeds the efficiency standards provided in section 3404 (relating to standards).

(b) Restriction on installation.--One year after the date on which the sale or offering for sale of certain products becomes subject to the requirements of subsection (a), no products may be installed for compensation in this Commonwealth unless the efficiency of the new product meets or exceeds the efficiency standards provided in section 3404.

§ 3406. New and revised standards and regulations.

The commission is authorized to prescribe rules and regulations as it deems necessary to administer and enforce this chapter and to establish increased efficiency standards for the products listed or incorporated in section 3402 (relating to general purpose, legislative findings and scope of chapter). The
chairperson may also establish standards for products not specifically listed in section 3402. In considering the new or amended standards, the chairperson, in consultation with the Secretary of Environmental Protection, shall set efficiency standards on a determination that increased efficiency standards would serve to promote energy or water conservation in this Commonwealth and would be cost effective for consumers who purchase and use the new products, provided that no new or increased efficiency standards shall become effective within one year following the adoption of any amended regulations establishing increased efficiency standards.

§ 3407. Testing, certification, labeling and enforcement.

(a) Product testing.--The manufacturer of products covered by this chapter shall test samples of their products in accordance with the test procedures adopted under this chapter. The chairperson may adopt updated test methods when new versions of test procedures become available.

(b) Compliance.--Manufacturers of new products covered by section 3402 (relating to general purpose, legislative findings and scope of chapter) shall certify to the chairperson that the products are in compliance with the provisions of this chapter. The certifications shall be based on test results under subsection (a). The commission shall promulgate regulations governing the certification of the products and shall coordinate with the certification programs of other Federal and State agencies with similar standards.

(c) Compliance mark, label or tag on product.--Manufacturers of new products covered by section 3402 shall identify each product offered for sale or installation in this Commonwealth as in compliance with the provisions of this chapter by means of a
mark, label or tag on the product and packaging at the time of sale or installation. The commission shall promulgate regulations governing the identification of the products and packaging, which shall be coordinated to the greatest practical extent with the labeling programs of other Federal and State agencies with equivalent efficiency standards. The chairperson shall allow the use of existing marks, labels or tags, which connote compliance with the efficiency requirements of this chapter.

(d) Chairperson testing permitted.--The chairperson may test products covered by section 3402. If tested products are found not to be in compliance with the minimum efficiency standards established under section 3404 (relating to standards), the chairperson shall:

(1) charge the manufacturer of the product for the cost of product purchase and testing; and

(2) make information available to the Attorney General and the public on products found not to be in compliance with the standards.

(e) Periodic inspections.--With prior notice and at reasonable and convenient hours, the chairperson may cause periodic inspections to be made of distributors or retailers of new products covered by section 3402 in order to determine compliance with the provisions of this chapter. The chairperson shall also coordinate with the Secretary of Labor and Industry regarding inspections prior to occupancy of a newly constructed building containing new products that are also covered by the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act.

(f) Complaint process.--The chairperson shall investigate
complaints received concerning violations of this chapter and shall report the results of the investigations to the Attorney General. The Attorney General may institute proceedings to enforce the provisions of this chapter. Any manufacturer, distributor or retailer, or any person who installs a product covered by this chapter for compensation, who violates any provision of this chapter shall be issued a warning by the chairperson for any first violation and subject to a civil penalty of up to $100 for each offense. Repeat violations shall be subject to a civil penalty of not more than $500 for each offense. Each violation shall constitute a separate offense and each day the violation continues shall constitute a separate offense. Penalties assessed under this subsection are in addition to costs assessed under subsection (d).

§ 3408. Severability.

The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application.

Section 2. All regulations and parts of regulations are abrogated to the extent of any inconsistency with the provisions of this act.

Section 3. All acts and parts of acts are repealed insofar as they are inconsistent with the provisions of this act.

Section 4. This act shall take effect in 60 days.