

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1432 Session of
2011

INTRODUCED BY BRIGGS, SANTARSIERO, D. COSTA, GOODMAN, HORNAMAN,
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MAY 3, 2011

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, MAY
3, 2011

AN ACT

1 Providing for minimum energy efficiency standards for certain
2 appliances and equipment; providing for the powers and duties
3 of the Department of Environmental Protection and the
4 Attorney General; and establishing the Appliance Energy
5 Efficiency Fund.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Appliance
10 Energy Efficiency Standards Act.

11 Section 2. Definitions.

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

15 "Art work light fixture." A light fixture designed only to
16 be mounted directly to or adjacent to art work and for the
17 purpose of illuminating that art work.

18 "Attorney General." The Attorney General of the

1 Commonwealth.

2 "Board." The Environmental Quality Board of the
3 Commonwealth.

4 "Bottle-type water dispenser." A water dispenser that uses a
5 bottle or reservoir as the source of potable water.

6 "Combination television." A system in which a television or
7 television monitor and an additional device or devices
8 including, but not limited to, a DVD player or a VCR, are
9 combined into a single unit in which the additional devices are
10 included in the television casing.

11 "Commercial hot food holding cabinet." A heated, fully
12 enclosed compartment with one or more doors that is designed to
13 maintain the temperature of hot food that has been cooked in a
14 separate appliance. The term does not include heated glass
15 merchandising cabinets, drawer warmers or cook-and-hold
16 appliances.

17 "Component television." A television composed of two or more
18 separate components marketed and sold as a television under one
19 model or system designation. An example of a component
20 television is a separate display device and tuner that is sold
21 as a model or a system. A component television may have more
22 than one power cord.

23 "Computer monitor." An analog or digital device designed
24 primarily for the display of computer-generated signals and that
25 is not marketed for use as a television.

26 "Covered product." New products sold, offered for sale or
27 installed in this Commonwealth that are subject to the terms of
28 this act.

29 "Department." The Department of Environmental Protection of
30 the Commonwealth.

1 "Department of Energy." The United States Department of
2 Energy.

3 "EPA." The United States Environmental Protection Agency.

4 "Fund." The Appliance Energy Efficiency Fund established in
5 section 9.

6 "LED light engine." A subsystem of an LED light fixture that
7 includes one or more LED components, including an LED driver
8 power source with electrical and mechanical interfaces, and an
9 integral heat sink to provide thermal dissipation and may be
10 designed to accept additional components that provide aesthetic,
11 optical and environmental control.

12 "LED light fixture." A complete lighting unit consisting of
13 an LED light source, with one or more LED lamps or LED light
14 engines, together with parts to distribute light, to position
15 and protect the light source and to connect the light source to
16 electrical power.

17 "Light fixture." A product designed to provide light that
18 includes at least one lamp socket and parts to distribute the
19 light, to position or protect one or more lamps and to connect
20 one or more lamps to a power supply.

21 "Portable electric spa." A factory-built electric spa or hot
22 tub, supplied with equipment for heating and circulating water.

23 "Portable light fixture." A light fixture that has a
24 flexible cord and an attachment plug for connection to a nominal
25 120-volt circuit that allows the user to relocate the product
26 without any rewiring and which typically can be controlled with
27 a switch on the product or the power cord of the product. The
28 term does not include art work light fixtures, direct plug-in
29 night lights, sun or heat lamps, medical or dental lights,
30 portable electric hand lamps, signs or commercial advertising

1 displays, photographic lamps, germicidal lamps or light fixtures
2 for marine use or for use in hazardous locations as those terms
3 are designated in ANSI/NFPA 70 of the National Electrical Code,
4 or its successor standard. The term does not include decorative
5 lighting strings, decorative lighting outfits or electric
6 candles or candelabra without lamp shades that are covered under
7 Underwriter Laboratories (UL) standard 588, "Seasonal and
8 Holiday Decorative Products.", or its successor standard.

9 "Secretary." The Secretary of Environmental Protection of
10 the Commonwealth.

11 "Television." An analog or digital device designed primarily
12 for the display and reception of a terrestrial, satellite, cable
13 Internet Protocol TV (IPTV) or other broadcast or recorded
14 transmission of analog or digital signals. The term includes
15 combination televisions, television monitors, component
16 televisions, and any product that is marketed as a television.
17 The term does not include computer monitors.

18 "Television monitor." A television that does not have an
19 internal tuner or receiver or playback device.

20 "Total horsepower." The product of a motor's service factor
21 and nameplate horsepower.

22 "Water dispenser." A factory-made assembly that mechanically
23 cools and heats potable water and that dispenses the cooled or
24 heated water by integral or remote means.

25 Section 3. Scope.

26 (a) General rule.--This act shall apply to the testing,
27 certification and enforcement of efficiency standards for all
28 covered products.

29 (b) Exclusions.--This act shall not apply to any of the
30 following:

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

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

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

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

10 Section 4. Efficiency standards.

11 In accordance with section 6, the secretary may adopt minimum
12 efficiency standards and other requirements to meet the purposes
13 of this act. For covered products, any such standards shall be
14 no less stringent than the following minimum efficiency
15 standards:

16 (1) Bottle-type water dispensers designed for dispensing
17 both hot and cold water shall not have standby energy
18 consumption greater than 1.2 kilowatt hours per day, as
19 measured in accordance with the test criteria contained in
20 version 1 of the EPA's "Energy Star Program Requirements for
21 Bottled Water Coolers," except units with an integral,
22 automatic timer shall not be tested using Section D, "Timer
23 Usage," of the test criteria.

24 (2) Commercial hot food holding cabinets with interior
25 volume of 8 cubic feet or greater shall have a maximum idle
26 energy rate of 40 watts per cubic foot of interior volume, as
27 determined by the "idle energy rate-dry test" in ASTM
28 F2140-01, "Standard Test Method for Performance of Hot Food
29 Holding Cabinets" published by ASTM International. Interior
30 volume shall be measured in accordance with the method shown

1 in the EPA's "Energy Star Program Requirements for Commercial
2 Hot Food Holding Cabinets" as in effect on August 15, 2003.

3 (3) Portable light fixtures shall meet one or more of
4 the following requirements:

5 (i) Be a fluorescent light fixture that meets the
6 requirements of the EPA's "Energy Star Program for
7 Residential Light Fixtures Version 4.2."

8 (ii) Be equipped with only one or more GU-24 line
9 voltage sockets, not be rated for use with incandescent
10 lamps of any type, as defined in ANSI standards, and meet
11 the requirements of the EPA's "Energy Star Program for
12 Residential Light Fixtures Version 4.2," including line
13 voltage or low voltage.

14 (iii) Be an LED light fixture or a light fixture
15 with an LED light engine and comply with the following
16 minimum requirements:

17 (A) Minimum light output: 200 lumens - initial.

18 (B) Minimum LED light engine efficacy: 40
19 lumens/watt in fixtures that meet the minimum light
20 fixture efficacy of 29 lumens/watt or, alternatively,
21 a minimum LED light engine efficacy of 60 lumens/watt
22 for fixtures that do not meet the minimum light
23 fixture efficacy of 29 lumens per watt.

24 (C) All portable fixtures shall have a minimum
25 LED light fixture efficacy of 29 lumens/watt and a
26 minimum LED light engine efficacy of 60 lumens/watt
27 by January 1, 2016.

28 (D) Color Correlated Temperature (CCT): 2700K
29 through 4000K.

30 (E) Minimum Color Rendering Index (CRI): 75.

1 (F) Power factor equal to or greater than 0.70.

2 (G) Portable light fixtures that have internal
3 power supplies shall have zero standby power when the
4 light fixture is turned off.

5 (H) LED light sources shall deliver at least 70%
6 of initial lumens for at least 25,000 hours.

7 (iv) Be equipped with an ANSI-designated E12, E17 or
8 E26 screw-based socket and be prepackaged and sold
9 together with one screw-based compact fluorescent lamp or
10 screw-based LED lamp for each screw-based socket on the
11 light fixture. The compact fluorescent or LED lamps
12 prepackaged with the light fixture shall be fully
13 compatible with any light fixture controls incorporated
14 into the light fixture, an example of such would be,
15 light fixtures with dimmers shall be packed with dimmable
16 lamps. Compact fluorescent lamps prepackaged with light
17 fixtures shall meet the requirements of the EPA's "Energy
18 Star Program for CFLs, Version 4.0."

19 (v) Be equipped with one or more single-ended, non-
20 screw-based halogen lamp sockets, line or low voltage, a
21 dimmer control or high-low control, and be rated for a
22 maximum of 100W.

23 (4) Portable electric spas shall not have a normalized
24 standby power greater than $5(V^{2/3})$ Watts where V=the fill
25 volume in gallons, as measured in accordance with the test
26 method for portable electric spas contained in section 1604,
27 title 20, California Code of Regulations as amended on
28 December 3, 2008.

29 (5) Televisions with a viewable screen area no greater
30 than 1400 square inches shall:

(i) use no more than $(0.12 \times \text{viewable screen area} + 25)$ watts in on mode;

(ii) use no more than one (1) watt in standby passive mode; and

(iii) have a peak luminance in the preset mode designed for typical home use and for the default mode as shipped that is no less than 65% of the peak luminance at the brightest setting.

Section 5. Implementation.

(a) Sale of new products.--On or after January 1, 2013, no covered product may be sold or offered for sale in this Commonwealth unless the efficiency of the covered product meets or exceeds the efficiency standards set forth in this section or adopted pursuant to section 6.

(b) Installation of new products.--On or after January 1, 2014, no covered product may be installed in this Commonwealth unless the efficiency of the new product meets or exceeds the efficiency standards set forth in section 4 or adopted pursuant to section 6.

Section 6. New and revised standards.

(a) General rule.--The board may establish new or increased efficiency standards for covered products by regulation. The board may also establish standards for products not included in the definition of covered products. In considering such new or amended standards, the board shall set efficiency standards upon a determination that increased efficiency standards would serve to promote energy conservation in the State and would be cost-effective for consumers who purchase and use such new products, provided that no new or increased efficiency standards shall become effective within one year following the adoption of any

1 amended regulations establishing such increased efficiency
2 standards.

3 (b) Secretary's authority.--Notwithstanding subsection (a),
4 and in order to facilitate the speedy implementation of this
5 program, the secretary shall have the power and authority to
6 adopt new or increased energy efficiency standards for covered
7 products through guidelines which shall be published in the
8 Pennsylvania Bulletin. The guidelines shall not be subject to
9 review pursuant to section 204(b) of the act of October 15, 1980
10 (P.L. 950, No. 164), known as the Commonwealth Attorneys Act,
11 and shall not be subject to review pursuant to the act of June
12 25, 1982 (P.L. 633, No. 181), known as the Regulatory Review
13 Act, and shall be effective until such time that the board
14 adopts a final rulemaking establishing new or increased energy
15 efficiency standards relating to that covered product.

16 (c) Standard determinations.--In order to exercise the
17 authority in subsection (b), the secretary must determine that:

18 (1) The standards will promote energy conservation in
19 this Commonwealth.

20 (2) The standards will be cost-effective for consumers
21 who purchase and use such products.

22 (3) The standards are used by the industry and are
23 publicly available in the United States.

24 (4) Products which meet the standards are widely
25 available for purchase at retailers in Pennsylvania.

26 (d) Adopted standards.--Standards adopted under subsection
27 (b) shall not become effective until six months following the
28 publication described in this section.

29 (e) Waiver.--The department may apply for a waiver of
30 Federal preemption in accordance with section 327 of the Energy

1 Policy and Conservation Act (Public Law 94-163, 89 Stat. 871).

2 Section 7. Administration.

3 (a) Testing.--If the procedures for testing the energy
4 efficiency of covered products are not provided for by State
5 law, the department shall use the Department of Energy approved
6 test methods or, in the absence of such test methods, other
7 appropriate nationally or State-recognized test methods. The
8 manufacturers of covered products shall provide to the
9 department, certification of the test data of the samples tested
10 in accordance with the test procedures adopted pursuant to this
11 act or those specified in other State law.

12 (b) Manufacturer certification.--Manufacturers of covered
13 products shall certify to the department that such products are
14 in compliance with the provisions of this act. The board shall
15 adopt regulations governing the certification of the products
16 and may work in coordination with the certification program of
17 other states with like standards.

18 (c) Reciprocity.--The board shall adopt regulations
19 governing the certification of new products and may coordinate
20 with the certification programs of other states with similar
21 standards. Any manufacturer that has certified a product to
22 another state or to the EPA Energy Star Program may provide the
23 department with a copy of the certification that the
24 manufacturer made to the other state or agency in place of a
25 separate certification to the department, provided that:

26 (1) the other state's standards or the Energy Star
27 specifications are equivalent to or more stringent than the
28 standards established under this act; and

29 (2) all information required by the regulations adopted
30 under paragraph (1) is included in the certification.

1 (d) Identification.--Manufacturers of covered products shall
2 identify each product offered for sale or installed in this
3 Commonwealth as in compliance with the provisions of this act by
4 means of a mark, label or tag on the product and packaging at
5 the time of sale or installation. The board shall adopt
6 regulations governing the identification of the products and
7 packaging and may work in coordination with the labeling
8 programs of other states with like standards.

9 (e) Noncompliant tested products.--The department may test a
10 covered product using an accredited testing facility. The board
11 shall adopt regulations governing the identification testing
12 protocols from similar states or EPA Energy Star program and may
13 work in coordination with testing programs of other states or
14 EPA Energy Star with like standards. If a product is tested and
15 is not in compliance with the minimum efficiency standards
16 established under section 6 or adopted pursuant to this section,
17 the department shall:

18 (1) Charge the manufacturer of the product for the cost
19 of product purchase and testing.

20 (2) Provide information to the public on the products.

21 (f) Periodic inspection.--The department may cause periodic
22 inspections to be made of distributors or retailers of covered
23 products in order to determine compliance with the provisions of
24 this act. The department shall cooperate with other Commonwealth
25 agencies to coordinate on inspections for covered products that
26 are also covered by other state laws.

27 (g) Regulations.--The board shall adopt regulations as
28 necessary to ensure the proper implementation and enforcement of
29 the provisions of this act.

30 Section 8. Unlawful conduct.

1 It shall be unlawful to fail to comply with, or to cause or
2 assist in the violation of, any of the provisions of this act or
3 rules, regulations and guidelines adopted; or to fail to comply
4 with any order of the department; or to hinder, obstruct,
5 prevent or interfere with the department or its personnel in the
6 performance of any duty under this act; or to violate the
7 provisions of 18 Pa.C.S. § 4903 (relating to false swearing) or
8 4904 (relating to unsworn falsification to authorities) in
9 regard to papers required to be submitted under this act.

10 Section 9. Civil penalties and remedies.

11 (a) Civil penalty.--

12 (1) In addition to proceeding under any other remedy
13 available at law or in equity for a violation of a provision
14 of this act or a rule or regulation adopted or order issued
15 under this act, the department may assess a civil penalty of
16 not more than \$250 for the first day of each offense and \$250
17 for each additional day of continuing violation. The factors
18 for consideration in determining the amount of the penalty
19 are:

20 (i) The extent of the violation.

21 (ii) The willfulness of the violation.

22 (iii) Previous violations.

23 (iv) The economic benefit to the violator for
24 failing to comply with this act.

25 (2) Whenever the department finds it appropriate, the
26 department may issue a warning in lieu of assessing a penalty
27 where the manufacturer, distributor or retailer takes
28 immediate action to resolve the violation and come into
29 compliance.

30 (b) Collection.--In cases of inability to collect the civil

1 penalty or failure of any person to pay all or a portion of the
2 penalty, as the department may determine, the department may
3 refer the matter to the Office of Attorney General which shall
4 take appropriate action to recover the penalty. Any penalty
5 assessed shall act as a lien on the property of the person
6 against whom the penalty has been assessed.

7 (c) Civil remedies.--In order to restrain or prevent any
8 violation of this act or the rules and regulations promulgated
9 under this act or any order issued under this act, suits may be
10 instituted in equity or at law. These proceedings may be
11 prosecuted in the Commonwealth Court or in the court of common
12 pleas of the county where the activity has taken place, the
13 condition exists or the public is affected, and, to that end,
14 jurisdiction is hereby conferred in law and equity upon these
15 courts. In addition to an injunction, the court in such equity
16 proceeding may assess civil penalties in accordance with this
17 section. The court may, in its decree, fix a reasonable time
18 during which the person responsible for the violation may make
19 provision for the abatement of same.

20 (d) Establishment of fund.--There is hereby created a
21 special nonlapsing account in the General Fund to be known as
22 the Appliance Energy Efficiency Fund. All fees, fines,
23 judgments, bond forfeitures, interest and recovered costs
24 collected by the department under this act shall be paid into
25 the Appliance Energy Efficiency Fund. All moneys placed in the
26 Appliance Energy Efficiency Fund and the interest it accrues are
27 hereby appropriated, upon authorization by the Governor, to the
28 department for the costs of implementing the energy efficiency
29 program created by this act.

30 Section 10. Enforcement orders.

1 The department may issue such orders as are necessary to aid
2 in the enforcement of the provisions of this act. Any order
3 issued under this section shall take effect upon notice unless
4 the order specifies otherwise.

5 Section 11. Powers reserved under existing laws.

6 Nothing contained in this act shall in any way abridge or
7 alter rights of action or remedies now or hereafter existing in
8 equity, or under the common law or statutory law, criminal or
9 civil, nor shall any provision in this act, or the granting of
10 any permit under this act, or any act done by virtue of this
11 act, be construed as stopping the Commonwealth, persons or
12 municipalities, in the exercise of their rights under the common
13 law or decisional law or in equity, from proceeding in courts of
14 law or equity to enforce common law or statutory rights. Nothing
15 in this act shall limit in any way whatever the powers conferred
16 upon the department or the Office of Attorney General under laws
17 other than this act, including the act of December 4, 1996 (P.L.
18 906, No 146), known as the Unfair Trade Practices and Consumer
19 Protection Law. A court exercising general equitable
20 jurisdiction shall not be deprived of such jurisdiction even
21 though a violation of this act is subject to regulation or other
22 action by the Commonwealth. The collection of any penalty
23 imposed under the provisions of this act shall not be construed
24 as estopping the Commonwealth from proceeding in courts of law
25 or equity address violations of this act or rules, regulations
26 and guidelines adopted hereunder; or an order of the department.
27 Section 12. Severability.

28 The provisions of this act are severable. If any provision of
29 this act or its application to any person or circumstance is
30 held invalid, the invalidity shall not affect other provisions

1 or applications of this act which can be given effect without
2 the invalid provision or application.

3 Section 13. Effective date.

4 This act shall take effect in 60 days.