

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 185

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

AN ACT

RELATING TO ENERGY; ENACTING THE ENVIRONMENTAL STANDARDS FOR  
APPLIANCES AND FIXTURES ACT; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
cited as the "Environmental Standards for Appliances and  
Fixtures Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
Environmental Standards for Appliances and Fixtures Act:

A. "air purifier", also known as "room air  
cleaner", means an electric, cord-connected, portable appliance  
with the primary function of removing particulate matter from  
the air and that can be moved from room to room;

B. "cold only water coolers" means a water cooler  
that dispenses only cold water;

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1           C. "cold temperature fluorescent lamp" means a  
2 fluorescent lamp that is not a compact fluorescent lamp and is:

3                   (1) specifically designed to start at negative  
4 twenty degrees Fahrenheit when used with a ballast conforming  
5 to the requirements of American national standards institute  
6 standards C78.81 and C78.901; and

7                   (2) expressly designated as a cold temperature  
8 lamp both in markings on the lamp and in marketing materials,  
9 including catalogs, sales literature and promotional material;

10           D. "commercial dishwasher" means a machine designed  
11 to clean and sanitize plates, pots, pans, glasses, cups, bowls,  
12 utensils and trays by applying sprays of detergent solution,  
13 with or without blasting media granules, and a sanitizing  
14 rinse;

15           E. "commercial fryer" means an appliance, including  
16 a cooking vessel, in which oil is placed to such a depth that  
17 the cooking food is essentially supported by displacement of  
18 the cooking fluid rather than by the bottom of the vessel, and  
19 heat is delivered to the cooking fluid by:

20                   (1) means of an immersed electric element or  
21 band-wrapped vessel (electric fryers); or

22                   (2) heat transfer from gas burners through  
23 either the walls of the fryer or through tubes passing through  
24 the cooking fluid (gas fryers);

25           F. "commercial hot-food holding cabinet" means a

1 heated, fully enclosed compartment with one or more solid or  
2 transparent doors designed to maintain the temperature of hot  
3 food that has been cooked using a separate appliance;

4 "commercial hot-food holding cabinet" does not mean heated  
5 glass merchandising cabinets, drawer warmers or cook-and-hold  
6 appliances;

7 G. "commercial oven" means a chamber designed for  
8 heating, roasting or baking food by conduction, convection,  
9 radiation or electromagnetic energy;

10 H. "commercial steam cooker" or "compartment  
11 steamer" means a device with one or more food-steaming  
12 compartments in which the energy in the steam is transferred to  
13 the food by direct contact and includes countertop models,  
14 wall-mounted models and floor models mounted on a stand,  
15 pedestal or cabinet-style base;

16 I. "compact fluorescent lamp" means a compact  
17 low-pressure, mercury-containing, electric-discharge light  
18 source in which a fluorescent coating transforms some of the  
19 ultraviolet energy generated by the mercury discharge into  
20 visible light and includes all of the following  
21 characteristics:

22 (1) one base (end cap) of any type, including  
23 screw, bayonet, two pins and four pins;

24 (2) integrally ballasted or non-integrally  
25 ballasted;

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1 (3) light emission between a correlated color  
2 temperature of one thousand seven hundred and twenty-four  
3 thousand degrees kelvin and a Duv between or equal to plus  
4 twenty-four thousandths and negative twenty-four thousandths  
5 according to the international commission on illumination  
6 uniform color space;

7 (4) all tube diameters and all tube lengths;  
8 and

9 (5) all lamp sizes and shapes for directional  
10 and nondirectional installations, including PL, spiral, twin  
11 tube, triple twin, 2D, U-bend and circular;

12 J. "compensation" means money or any other thing of  
13 value, regardless of form, received or to be received by a  
14 person for services rendered;

15 K. "cook and cold water coolers" means a water  
16 cooler that dispenses both cold and room-temperature water;

17 L. "department" means the energy, minerals and  
18 natural resources department;

19 M. "dual-flush effective flush volume" means the  
20 average flush volume of two reduced flushes and one full flush;

21 N. "dual-flush tank-type water closet" means a  
22 water closet incorporating a feature that allows the user to  
23 flush the water closet with either a reduced or full volume of  
24 water;

25 O. "Duv" means the closest distance from the

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1 chromaticity coordinate of the light source to the Planckian  
2 locus on the international commission on illumination ( $u'$ ,  $2/3$   
3  $v'$ ) coordinates with "+" sign for above and "-" sign for below  
4 the Planckian locus;

5 P. "electric vehicle supply equipment" means the  
6 conductors, including ungrounded, grounded and equipment  
7 grounding conductors, electric vehicle connectors, attachment  
8 plugs and all other fittings, devices, power outlets or  
9 apparatuses installed specifically for the purpose of  
10 delivering energy from the premises wiring to an electric  
11 vehicle; "electric vehicle supply equipment" does not mean  
12 conductors, connectors and fittings that are part of an  
13 electric vehicle;

14 Q. "faucet" means a private lavatory faucet,  
15 residential kitchen faucet, metering faucet, public lavatory  
16 faucet or replacement aerator for such faucets;

17 R. "hand-held showerhead" means a showerhead that  
18 can be held or fixed in place for the purpose of spraying water  
19 onto a bather and is connected to a flexible hose;

20 S. "high color rendering index fluorescent lamp"  
21 means a fluorescent lamp with a color rendering index of  
22 eighty-seven or greater that is not a compact fluorescent lamp;

23 T. "hot and cold water coolers" means a water  
24 cooler that dispenses hot water, cold water and in some cases  
25 room-temperature water;

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1           U. "impact-resistant fluorescent lamp" means a  
2 fluorescent lamp that is not a compact fluorescent lamp that:

3                   (1) has a coating or equivalent technology  
4 that is compliant with American national standards institute  
5 standard 51 and is designed to contain the glass if the glass  
6 envelope of the lamp is broken; and

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

9                           (a) the designation on the lamp  
10 packaging; and

11                           (b) marketing materials that identify  
12 the lamp as being impact-resistant, shatter-resistant,  
13 shatterproof or shatter-protected;

14           V. "industrial air purifier" means an indoor air  
15 cleaning device manufactured, advertised, marketed, labeled and  
16 used solely for industrial use that is marketed solely through  
17 industrial supply outlets or businesses and is prominently  
18 labeled as being solely for industrial use and having a  
19 potential health hazard through the emission of ozone;

20           W. "linear fluorescent lamp" means a low-pressure,  
21 mercury-containing, electric-discharge light source in which a  
22 fluorescent coating transforms some of the ultraviolet energy  
23 generated by the mercury discharge into visible light and  
24 includes all of the following characteristics:

25                   (1) two bases (end caps) of any type,

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1 including single-pin, two-pin and recessed double contact;

2 (2) light emission between a correlated color  
3 temperature of one thousand seven hundred and twenty-four  
4 thousand degrees kelvin and a delta ultraviolet value between  
5 or equal to plus twenty-four thousandths and negative twenty-  
6 four thousandths according to the international commission on  
7 illumination uniform color space;

8 (3) all tube diameters, including T5, T8, T10  
9 and T12;

10 (4) all tube lengths from one-half foot to  
11 eight feet in length; and

12 (5) all lamp shapes, including linear, U-bend  
13 and circular;

14 X. "manufactured house" means a single-family  
15 dwelling built on a permanent chassis designed for long-term  
16 residential occupancy and containing complete electrical,  
17 plumbing and sanitary facilities designed to be installed in a  
18 permanent or semipermanent manner with or without a permanent  
19 foundation, which dwelling is capable of being drawn over  
20 public highways as a unit or in sections by special permit;

21 Y. "metering faucet" means a self-closing faucet  
22 that dispenses a specific volume of water for each actuation  
23 cycle in which the volume or cycle duration can be fixed or  
24 adjusted;

25 Z. "on demand water cooler" means a water cooler

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1 that heats water as requested and typically takes a few minutes  
2 to deliver;

3 AA. "plumbing fixture" means an exchangeable device  
4 that connects to a plumbing system to deliver and drain away  
5 water and waste;

6 BB. "portable electric spa" means a factory-built  
7 electric spa or hot tub that may include any combination of  
8 integral controls, water heating or water circulating  
9 equipment;

10 CC. "pressure regulator" means a device that  
11 maintains constant operating pressure immediately downstream  
12 from the device, given higher pressure upstream;

13 DD. "public lavatory faucet" means a fitting  
14 designed to be installed in nonresidential bathrooms that are  
15 exposed to walk-in traffic;

16 EE. "recreational vehicle" means a vehicle with a  
17 camping body that has its own motive power, is affixed to or is  
18 drawn by another vehicle and includes motor homes, travel  
19 trailers and truck campers;

20 FF. "replacement aerator" means an aerator sold as  
21 a replacement, separate from the faucet to which it is intended  
22 to be attached;

23 GG. "residential ventilating fan" means a ceiling  
24 or wall-mounted fan, or remotely mounted inline fan, designed  
25 to be used in a bathroom or utility room for the purpose of

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1 moving air from inside the building to the outdoors;

2 HH. "showerhead" means a component or set of  
3 components distributed in commerce for attachment to a single  
4 supply fitting for spraying water onto a bather, typically from  
5 an overhead position, excluding safety shower showerheads;

6 II. "spray sprinkler body" means the exterior case  
7 or shell of a sprinkler incorporating a means of connection to  
8 the piping system designed to convey water to a nozzle or  
9 orifice;

10 JJ. "storage-type water cooler" means a water  
11 cooler in which thermally conditioned water is stored in a tank  
12 and is available instantaneously and includes point-of-use, dry  
13 storage compartment and bottled water coolers;

14 KK. "trough-type urinal" means a urinal designed  
15 for simultaneous use by two or more persons;

16 LL. "urinal" means a plumbing fixture that receives  
17 only liquid body waste and conveys the waste through a trap  
18 into a drainage system;

19 MM. "water closet" means a plumbing fixture having  
20 a water-containing receptor that receives liquid and solid body  
21 waste through an exposed integral trap into a drainage system;  
22 and

23 NN. "water cooler" means a freestanding device that  
24 consumes energy to cool or heat potable water.

25 SECTION 3. [NEW MATERIAL] APPLICABILITY.--

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1                   A. The Environmental Standards for Appliances and  
2 Fixtures Act applies to:

- 3                   (1) air purifiers;
- 4                   (2) commercial dishwashers;
- 5                   (3) commercial fryers;
- 6                   (4) commercial hot-food holding cabinets;
- 7                   (5) commercial ovens;
- 8                   (6) commercial steam cookers;
- 9                   (7) electric vehicle supply equipment;
- 10                  (8) faucets;
- 11                  (9) high color rendering index, cold  
12 temperature and impact-resistant fluorescent lamps;
- 13                  (10) portable electric spas;
- 14                  (11) residential ventilating fans;
- 15                  (12) showerheads;
- 16                  (13) spray sprinkler bodies;
- 17                  (14) urinals;
- 18                  (15) water closets;
- 19                  (16) water coolers; and
- 20                  (17) any other product designated by the  
21 department pursuant to Section 6 of the Environmental Standards  
22 for Appliances and Fixtures Act.

23                   B. The Environmental Standards for Appliances and  
24 Fixtures Act does not apply to:

- 25                  (1) new products manufactured in New Mexico

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1 and sold outside of the state;

2 (2) used products;

3 (3) products held in inventory within New  
4 Mexico on or before December 31, 2024;

5 (4) products installed in manufactured housing  
6 at the time of construction; or

7 (5) products designed expressly for  
8 installation and use in recreational vehicles.

9 SECTION 4. [NEW MATERIAL] STANDARDS--APPLIANCES AND  
10 PLUMBING FIXTURES.--New products itemized in Subsection A of  
11 Section 3 of the Environmental Standards for Appliances and  
12 Fixtures Act sold or leased, offered for sale or lease or  
13 installed for compensation in New Mexico after December 31,  
14 2024 shall meet the following standards:

15 A. air purifiers other than industrial air  
16 purifiers shall meet the following requirements as measured in  
17 accordance with the certification criteria of the energy star  
18 product specification for room air cleaners, version 2.0;

19 B. commercial dishwashers included in the scope of  
20 the energy star program requirements product specification for  
21 commercial dishwashers, version 2.0, shall meet the  
22 qualification criteria of that specification;

23 C. commercial fryers included in the scope of the  
24 energy star program requirements product specification for  
25 commercial fryers, version 2.0, shall meet the qualification

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1 criteria of that specification;

2 D. commercial hot-food holding cabinets shall meet  
3 the qualification criteria of the energy star program  
4 requirements product specification for commercial hot-food  
5 holding cabinets, version 2.0;

6 E. commercial ovens included in the scope of the  
7 energy star program requirements product specification for  
8 commercial ovens, version 2.2, shall meet the qualification  
9 criteria of that specification;

10 F. commercial steam cookers shall meet the  
11 requirements of the energy star program requirements product  
12 specification for commercial steam cookers, version 1.2;

13 G. electric vehicle supply equipment included in  
14 the scope of the energy star program requirements product  
15 specification for electric vehicle supply equipment, version  
16 1.0, shall meet the certification criteria of that  
17 specification;

18 H. faucets, except for metering faucets, shall meet  
19 the following standards when tested in accordance with Appendix  
20 S to Subpart B of Part 430 of Title 10 of the Code of Federal  
21 Regulations, and compliance with those requirements shall be  
22 determined pursuant to the uniform test method for measuring  
23 the water consumption of faucets and showerheads:

24 (1) private lavatory faucets and replacement  
25 aerators shall not exceed a maximum flow rate of one and two-

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1 tenths gallons per minute at sixty pounds per square inch;

2 (2) residential kitchen faucets and  
3 replacement aerators shall not exceed a maximum flow rate of  
4 one and eight-tenths gallons per minute at sixty pounds per  
5 square inch, with optional temporary flow of two and two-tenths  
6 gallons per minute; provided that they default to a maximum  
7 flow rate of one and eight-tenths gallons per minute at sixty  
8 pounds per square inch after each use; and

9 (3) public lavatory faucets and replacement  
10 aerators shall not exceed a maximum flow rate of one-half  
11 gallon per minute at sixty pounds per square inch;

12 I. high color rendering index fluorescent lamps,  
13 cold temperature fluorescent lamps and impact-resistant  
14 fluorescent lamps shall meet the minimum efficacy requirements  
15 contained in Paragraph 4 of Subsection (n) of Section 430.32 of  
16 Title 10 of the Code of Federal Regulations as in effect on  
17 January 1, 2021, as measured in accordance with Appendix R to  
18 Subpart B of Part 430 of Title 10 of the Code of Federal  
19 Regulations as in effect on January 1, 2021;

20 J. portable electric spas shall meet the  
21 requirements of American national standards institute standard  
22 14-2019 ("American national standard for portable electric spa  
23 energy efficiency");

24 K. inline residential ventilating fans shall have a  
25 fan motor efficacy of no less than two and eight-tenths cubic

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1 feet per minute per watt. All other residential ventilating  
2 fans shall have a fan motor efficacy of no less than one and  
3 four-tenths cubic feet per minute per watt for air flows less  
4 than ninety cubic feet per minute and no less than two and  
5 eight-tenths cubic feet per minute per watt for other air flows  
6 when tested in accordance with home ventilation institute  
7 publication 916 ("HVI Airflow Test Procedure");

8 L. showerheads shall not exceed a maximum flow rate  
9 of one and eight-tenths gallons per minute at eighty pounds per  
10 square inch when tested in accordance with Appendix S to  
11 Subpart B of Part 430 of Title 10 of the Code of Federal  
12 Regulations and compliance with those requirements shall be  
13 "uniform test method for measuring the water consumption of  
14 faucets and showerheads";

15 M. spray sprinkler bodies that are not specifically  
16 excluded from the scope of the watersense specification for  
17 spray sprinkler bodies, version 1.0, shall include an integral  
18 pressure regulator and shall meet the water efficiency and  
19 performance criteria and other requirements of that  
20 specification;

21 N. urinals and water closets, other than those  
22 designed and marketed exclusively for use at prisons or mental  
23 health facilities, shall meet the standards set forth in  
24 Paragraphs (1) through (4) of this subsection when tested in  
25 accordance with Appendix T to Subpart B of Part 430 of Title 10

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1 of the Code of Federal Regulations ("uniform test method for  
2 measuring the water consumption of water closets and urinals"),  
3 and water closets shall pass the waste extraction test for  
4 water closets pursuant to American society of mechanical  
5 engineers standard A112.19.2:

6 (1) wall-mounted urinals, except for trough-  
7 type urinals, shall have a maximum flush volume of one-eighth  
8 gallon per flush;

9 (2) floor-mounted urinals, except for  
10 trough-type urinals, shall have a maximum flush volume of one-  
11 half gallon per flush;

12 (3) water closets, except for dual-flush  
13 tank-type water closets, shall have a maximum flush volume of  
14 one and twenty-eight hundredths gallon per flush; and

15 (4) dual-flush tank-type water closets shall  
16 have a maximum dual-flush effective flush volume of one and  
17 twenty-eight hundredths gallon per flush; and

18 0. water coolers included in the scope of the  
19 energy star program requirements product specification for  
20 water coolers, version 2.0, shall have on mode with no water  
21 draw energy consumption less than or equal to the following  
22 values as measured in accordance with the test requirements of  
23 that program:

24 (1) sixteen one hundredths kilowatt-hours per  
25 day for cold-only water coolers and cook and cold water

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1 coolers;

2 (2) eighty-seven one hundredths kilowatt-hours  
3 per day for storage type hot and cold water coolers; and

4 (3) eighteen one hundredths kilowatt-hours per  
5 day for on demand hot and cold water coolers.

6 SECTION 5. [NEW MATERIAL] STANDARDS--LIGHTING FIXTURES--  
7 EXEMPTIONS.--

8 A. On and after December 31, 2023, a screw or  
9 bayonet base type compact fluorescent lamp shall not be offered  
10 for final sale, sold at final sale or distributed in New Mexico  
11 as a new manufactured product.

12 B. On and after December 31, 2024, a pin-base type  
13 compact fluorescent lamp or a linear fluorescent lamp shall not  
14 be offered for final sale, sold at final sale or distributed in  
15 New Mexico as a new manufactured product.

16 C. Subsections A and B of this section shall not  
17 apply to the following:

18 (1) a lamp designed and marketed exclusively  
19 for use in image capture and projection, including  
20 photocopying, printing, directly or in preprocessing,  
21 lithography, film and video projection and holography;

22 (2) a lamp that has a high proportion of  
23 ultraviolet light emission and is one of the following:

24 (a) a lamp with high ultraviolet content  
25 that has ultraviolet power greater than two milliwatts per

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1 kilolumen;

2 (b) a lamp for germicidal use, such as  
3 the destruction of DNA, that emits a peak radiation of  
4 approximately two hundred fifty-three and seven-tenths  
5 nanometers;

6 (c) a lamp designed and marketed  
7 exclusively for use in disinfection or fly trapping from which  
8 either the radiation power emitted between two hundred fifty  
9 and three hundred fifteen nanometers represents at least five  
10 percent of, or the radiation power emitted between three  
11 hundred fifteen and four hundred nanometers represents at least  
12 twenty percent of, the total radiation power emitted between  
13 two hundred fifty and eight hundred nanometers;

14 (d) a lamp designed and marketed  
15 exclusively for use in the generation of ozone where the  
16 primary purpose is to emit radiation at approximately one  
17 hundred eighty-five and one-tenth nanometers;

18 (e) a lamp designed and marketed  
19 exclusively for use in coral zooxanthellae symbiosis from which  
20 the radiation power emitted between four hundred and four  
21 hundred eighty nanometers represents at least forty percent of  
22 the total radiation power emitted between two hundred fifty and  
23 eight hundred nanometers; and

24 (f) any lamp designed and marketed  
25 exclusively for use in a sunlamp product, as defined in Section

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1 1040.20(b)(9) of Subchapter J of 21 C.F.R., as in effect on  
2 January 1, 2023;

3 (3) a lamp designed and marketed exclusively  
4 for use in medical or veterinary diagnosis or treatment or used  
5 in a medical device;

6 (4) a lamp designed and marketed exclusively  
7 for use in pharmaceutical product manufacturing or quality  
8 control;

9 (5) a lamp designed and marketed exclusively  
10 for use in spectroscopy and photometric applications, such as,  
11 for example, ultraviolet-visible spectroscopy, molecular  
12 spectroscopy, atomic absorption spectroscopy, nondispersive  
13 infrared, Fourier transform infrared, medical analysis,  
14 ellipsometry, layer thickness measurement, process monitoring  
15 or environmental monitoring; or

16 (6) a lamp used by academic and research  
17 institutions exclusively for conducting research projects and  
18 experiments.

19 SECTION 6. [NEW MATERIAL] NEW AND REVISED STANDARDS.--The  
20 department may adopt rules, pursuant to the State Rules Act, to  
21 establish increased efficiency standards or updated test  
22 procedures for the products listed or incorporated in  
23 Subsection A of Section 3 of the Environmental Standards for  
24 Appliances and Fixtures Act.

25 SECTION 7. [NEW MATERIAL] TESTING--CERTIFICATION--  
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1 LABELING.--The manufacturers of products covered by the  
2 Environmental Standards for Appliances and Fixtures Act shall  
3 demonstrate that products comply with that act by doing any one  
4 or more of the following:

5 A. affixing a mark, label or tag to the product and  
6 packaging at the time of sale or installation that demonstrates  
7 compliance with state or federal agencies that have equivalent  
8 or more stringent efficiency standards;

9 B. appearing in a public database of compliant  
10 products maintained by one or more other states or federal  
11 agencies with equivalent or more stringent efficiency  
12 standards;

13 C. appearing in the state appliance standards  
14 database maintained by the northeast energy efficiency  
15 partnership or a successor organization; or

16 D. submitting other proof as the department may  
17 deem appropriate to show that the product complies.

18 SECTION 8. [NEW MATERIAL] ENFORCEMENT.--

19 A. The department may conduct periodic unannounced  
20 inspections of distributors or retailers, including online  
21 retailers, of new products regulated by the Environmental  
22 Standards for Appliances and Fixtures Act in order to determine  
23 compliance with the provisions of that act.

24 B. The attorney general shall accept anonymous  
25 online reports of potential violations from members of the

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1 public.

2 C. If the department finds that violations may have  
3 occurred, the department may report the results of the  
4 violations to the attorney general. The attorney general may  
5 institute proceedings to seek an injunction in state court to  
6 enforce the provisions of the Environmental Standards for  
7 Appliances and Fixtures Act and seek the imposition of civil  
8 penalties of up to five hundred dollars (\$500) for each  
9 violation. Each product offered, sold or distributed in  
10 violation of the Environmental Standards for Appliances and  
11 Fixtures Act shall constitute a separate offense, and each day  
12 that such violation occurs shall constitute a separate offense.

13 D. The department may promulgate further rules as  
14 necessary to ensure the proper implementation and enforcement  
15 of the Environmental Standards for Appliances and Fixtures Act.

16 SECTION 9. ~~[NEW MATERIAL]~~ UTILITY-SPONSORED ENERGY  
17 EFFICIENCY PROGRAMS.--Utilities may continue to offer rebates  
18 and incentives to accelerate a market transition away from any  
19 products prohibited herein, up to three years after the  
20 effective date of any applicable standard.

21 SECTION 10. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is January 1, 2024.