

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 5160

with Senate Floor Amendments
(Proposed by Senator SMITH)

ADOPTED: DECEMBER 2, 2021

These floor amendments would:

1) provide that the Department of Environmental Protection (DEP), rather than the Department of Community Affairs, would be responsible for enforcing the bill's provisions;

2) add a definition of "person" to the bill, which includes both natural and artificial persons;

3) provide that the bill's prohibition on the sale and installation of certain products would go into effect one year after the bill's enactment, rather than on January 1, 2022, and that the rest of the bill's provisions would take effect immediately;

4) clarify that the bill would prohibit the sale and installation of certain products that do not include a mark, tag, or label indicating that the product complies with the bill's efficiency standards, rather than products that do not meet the bill's efficiency standards simpliciter;

5) require subcode officials to verify the presence of the mark, tag, or label required by the bill on certain products that are required to be inspected pursuant to the State Uniform Construction Code;

6) prohibit persons from affixing a mark, tag, or label to a product covered under the bill unless the product meets the efficiency standards established in the bill;

7) remove the requirement for the Commissioner of Community Affairs to adopt rules and regulations to implement the bill, and insert a provision authorizing the DEP to adopt such rules and regulations;

8) clarify that the bill's provisions do not apply to products manufactured and sold outside the State;

9) remove the authorization for the Commissioner of Community Affairs to require manufacturers to use updated test procedures to determine the efficiency of their products;

10) remove a requirement for the Commissioner of Community Affairs to identify each product covered under the bill;

11) provide that the bill would not impose liability on any news media that accepts or publishes advertising for any product covered under the bill;

12) remove all explicit authorization for the Attorney General to be involved in enforcing the bill's provisions;

13) require manufacturers of products covered by the bill to include information about the mark, tag, or label they plan to use to satisfy the bill's requirement in their annual certification to the DEP commissioner, required by subsection b. of section 7 of the bill;

14) increase the civil penalties imposed by the bill, and provide that civil penalties collected by the department may be used to enforce the bill's provisions;

15) authorize the DEP to take injunctive action to enforce the bill's provisions;

16) direct the DEP, in conjunction with the Department of Community Affairs and the Board of Public Utilities to perform the study required by section 8 of the bill, rather than the Department of Community Affairs; and

17) make technical changes to the bill.