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Baldwin's Ohio Revised Code Annotated [Currentness](#)

Title XXXVII. Health--Safety--Morals

▢ [Chapter 3701](#). Department of Health ([Refs & Annos](#))

▢ Miscellaneous Provisions

→ **3701.82 Venting of heaters and burners; unvented kerosene, natural gas, or liquid petroleum heaters**

(A) A brazier, salamander, space heater, room heater, furnace, water heater, or other burner or heater using wood, coal, coke, fuel oil, kerosene, gasoline, natural gas, liquid petroleum gas, or similar fuel, and tending to give off carbon monoxide or other harmful gases:

(1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed, and maintained as to vent the products of combustion outdoors; except in storage, factory, or industrial buildings which are provided with sufficient ventilation to avoid the danger of carbon monoxide poisoning;

(2) When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed, or structure in which persons are temporarily present, shall be vented as provided in division (A)(1) of this section, or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

(B) This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace with an adequate flue, or hot plates, unless the same are used as space or room heaters.

(C) No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting and ventilation provided in this section.

(D) Division (A) of this section does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shutoff system, and that has its fuel piped from a source outside of the building in which it is located, that are approved by an authoritative source recognized by the state fire marshal in the state fire code adopted by him under [section 3737.82 of the Revised Code](#).

(E) The state fire marshal may make rules to ensure the safe use of unvented kerosene, natural gas, or liquid petroleum gas heaters exempted from division (A) of this section when used in assembly buildings, business build-

ings, high hazard buildings, institutional buildings, mercantile buildings, and type R-1 and R-2 residential buildings, as these groups of buildings are defined in rules adopted by the board of building standards under [section 3781.10 of the Revised Code](#). No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this division.

(F) The state fire marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas, or liquid petroleum gas heater. No person shall sell or offer for sale any kerosene, natural gas, or liquid petroleum gas heater unless the manufacturer provides with the heater written instructions that comply with any rules adopted under this division.

(G) No product labeled as a fuel additive for kerosene heaters and having a flash point below one hundred degrees fahrenheit or thirty-seven and eight-tenths degrees centigrade shall be sold, offered for sale, or used in any kerosene space heater.

(H) No device that prohibits any safety feature on a kerosene, natural gas, or liquid petroleum gas space heater from operating shall be sold, offered for sale, or used in connection with any kerosene, natural gas, or liquid petroleum gas space heater.

(I) No person shall sell or offer for sale any kerosene-fired, natural gas, or liquid petroleum gas-fired heater that is not exempt from division (A) of this section unless it is marked conspicuously by the manufacturer on the container with the phrase "Not Approved For Home Use."

(J) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the state fire marshal in the state fire code adopted by him under [section 3737.82 of the Revised Code](#).

#### CREDIT(S)

(1985 S 184, eff. 3-13-86; 1981 H 382; 1979 H 815; 1972 H 511)

#### HISTORICAL AND STATUTORY NOTES

**Ed. Note:** 3701.82 contains provisions analogous to former 2923.25 and 2923.251, repealed by 1972 H 511, eff. 1-1-74.

**Ed. Note:** Former 3701.82 repealed by 1972 S 527, eff. 9-28-72; 126 v 704.

## CROSS REFERENCES

**Penalty:** [3701.99\(C\)](#)

## OHIO ADMINISTRATIVE CODE REFERENCES

Adoption and scope of fire code, [OAC 1301:7-3-01](#)

Building services and systems, [OAC 1301:7-7-06](#)

Flammable and combustible liquids, [OAC 1301:7-7-34](#)

## LIBRARY REFERENCES

[Gas](#)  [16 to 18](#).

Westlaw Topic No. [190](#).

[C.J.S. Gas §§ 119 to 124, 126](#).

## RESEARCH REFERENCES

Encyclopedias

[OH Jur. 3d Health & Sanitation § 27](#), Generally; Trades, Occupations, Professions.

## NOTES OF DECISIONS

Federal preemption [2](#)

Occupant responsibility [1](#)

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1. Occupant responsibility

[RC 2923.251](#) refers to and comprehends the occupier, lessee or tenant of such premises in occupation thereof and in control of such heating device and does not refer to or comprehend the owner in fee of the property out of possession and control and who is not connected with the installation, maintenance or operation of such heating device. [Grieser v. Huntington Nat. Bank of Columbus \(Ohio 1964\) 176 Ohio St. 291, 199 N.E.2d 556, 27 O.O.2d 202](#).

2. Federal preemption

With the exceptions found in [15 USC 2075\(b\)](#) and [\(c\)](#), RC 3701.82 is preempted by the consumer product safety commission's regulations found in 16 CFR Part 1212 to the extent that RC 3701.82 attempts to regulate the risk of carbon monoxide poisoning associated with the use of unvented gas-fired space heaters or burners. OAG 82-088.

### 3. Products liability

A plaintiff who alleges that a fire in her home was due to a kerosene heater defective in design presents sufficient evidence to defeat a motion for summary judgment on a products liability claim when an expert testifies that (1) the leakage of kerosene from the heater probably occurred at the connection at the removable fuel tank, and that the heater should have been designed without a make/break connection at that location in order to make the heater as safe as an ordinary consumer would expect; and (2) an automatic fuel shut-off should have been incorporated into the design to prevent a fire from fuel leakage, irrespective of the source of the leak. *Shaw v Toyotomi America, Inc*, No. 9-94-49, 1995 WL 54056 (3d Dist Ct App, Marion, 2-8-95).

R.C. § 3701.82, OH ST § 3701.82

Current through 2009 File 8, of the 128th GA (2009-2010), apv. by 7/16/09 and filed with the Secretary of State by 7/16/09.

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