

114TH CONGRESS  
1ST SESSION

# H. R. 906

To modify the efficiency standards for grid-enabled water heaters.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2015

Mr. WHITFIELD (for himself, Mr. WELCH, Mr. LATTA, Mr. LOEBSACK, Mr. CRAMER, and Mr. MICHAEL F. DOYLE of Pennsylvania) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To modify the efficiency standards for grid-enabled water heaters.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. GRID-ENABLED WATER HEATERS.**

4 Part B of title III of the Energy Policy and Conserva-  
5 tion Act (42 U.S.C. 6291 et seq.) is amended—

6 (1) in section 325(e) (42 U.S.C. 6295(e)), by  
7 adding at the end the following:

8 “(6) **ADDITIONAL STANDARDS FOR GRID-EN-**  
9 **ABLED WATER HEATERS.—**

10 “(A) **DEFINITIONS.—**In this paragraph:

1           “(i) ACTIVATION LOCK.—The term  
2           ‘activation lock’ means a control mecha-  
3           nism (either a physical device directly on  
4           the water heater or a control system inte-  
5           grated into the water heater) that is locked  
6           by default and contains a physical, soft-  
7           ware, or digital communication that must  
8           be activated with an activation key to en-  
9           able the product to operate at its designed  
10          specifications and capabilities and without  
11          which activation the product will provide  
12          not greater than 50 percent of the rated  
13          first hour delivery of hot water certified by  
14          the manufacturer.

15          “(ii) GRID-ENABLED WATER HEAT-  
16          ER.—The term ‘grid-enabled water heater’  
17          means an electric resistance water heater  
18          that—

19                  “(I) has a rated storage tank vol-  
20                  ume of more than 75 gallons;

21                  “(II) is manufactured on or after  
22                  April 16, 2016;

23                  “(III) has—

24                          “(aa) an energy factor of  
25                          not less than 1.061 minus the

1 product obtained by multi-  
2 plying—  
3 “(AA) the rated storage  
4 volume of the tank, ex-  
5 pressed in gallons; and  
6 “(BB) 0.00168; or  
7 “(bb) an equivalent alter-  
8 native standard prescribed by the  
9 Secretary and developed pursu-  
10 ant to paragraph (5)(E);  
11 “(IV) is equipped at the point of  
12 manufacture with an activation lock;  
13 and  
14 “(V) bears a permanent label ap-  
15 plied by the manufacturer that—  
16 “(aa) is made of material  
17 not adversely affected by water;  
18 “(bb) is attached by means  
19 of non-water-soluble adhesive;  
20 and  
21 “(cc) advises purchasers and  
22 end-users of the intended and ap-  
23 propriate use of the product with  
24 the following notice printed in

1 16.5 point Arial Narrow Bold  
2 font:

3 “‘IMPORTANT INFORMATION: This water heater is  
4 intended only for use as part of an electric thermal storage  
5 or demand response program. It will not provide adequate  
6 hot water unless enrolled in such a program and activated  
7 by your utility company or another program operator.  
8 Confirm the availability of a program in your local area  
9 before purchasing or installing this product.’.

10 “(B) REQUIREMENT.—The manufacturer  
11 or private labeler shall provide the activation  
12 key for a grid-enabled water heater only to a  
13 utility or other company that operates an elec-  
14 tric thermal storage or demand response pro-  
15 gram that uses such a grid-enabled water heat-  
16 er.

17 “(C) REPORTS.—

18 “(i) MANUFACTURERS.—The Sec-  
19 retary shall require each manufacturer of  
20 grid-enabled water heaters to report to the  
21 Secretary annually the quantity of grid-en-  
22 abled water heaters that the manufacturer  
23 ships each year.

24 “(ii) OPERATORS.—The Secretary  
25 shall require utilities and other demand re-

1           sponse and thermal storage program oper-  
2           ators to report annually the quantity of  
3           grid-enabled water heaters activated for  
4           their programs using forms of the Energy  
5           Information Agency or using such other  
6           mechanism that the Secretary determines  
7           appropriate after an opportunity for notice  
8           and comment.

9           “(iii) CONFIDENTIALITY REQUIRE-  
10          MENTS.—The Secretary shall treat ship-  
11          ment data reported by manufacturers as  
12          confidential business information.

13          “(D) PUBLICATION OF INFORMATION.—

14          “(i) IN GENERAL.—In 2017 and  
15          2019, the Secretary shall publish an anal-  
16          ysis of the data collected under subpara-  
17          graph (C) to assess the extent to which  
18          shipped products are put into use in de-  
19          mand response and thermal storage pro-  
20          grams.

21          “(ii) PREVENTION OF PRODUCT DI-  
22          VERSION.—If the Secretary determines  
23          that sales of grid-enabled water heaters ex-  
24          ceed by 15 percent or greater the quantity  
25          of such products activated for use in de-

1 mand response and thermal storage pro-  
2 grams annually, the Secretary shall, after  
3 opportunity for notice and comment, estab-  
4 lish procedures to prevent product diver-  
5 sion for non-program purposes.

6 “(E) COMPLIANCE.—

7 “(i) IN GENERAL.—Subparagraphs  
8 (A) through (D) shall remain in effect  
9 until the Secretary determines under this  
10 section that—

11 “(I) grid-enabled water heaters  
12 do not require a separate efficiency  
13 requirement; or

14 “(II) sales of grid-enabled water  
15 heaters exceed by 15 percent or great-  
16 er the quantity of such products acti-  
17 vated for use in demand response and  
18 thermal storage programs annually  
19 and procedures to prevent product di-  
20 version for non-program purposes  
21 would not be adequate to prevent such  
22 product diversion.

23 “(ii) EFFECTIVE DATE.—If the Sec-  
24 retary exercises the authority described in  
25 clause (i) or amends the efficiency require-

1           ment for grid-enabled water heaters, that  
2           action will take effect on the date de-  
3           scribed in subsection (m)(4)(A)(ii).

4           “(iii) CONSIDERATION.—In carrying  
5           out this section with respect to electric  
6           water heaters, the Secretary shall consider  
7           the impact on thermal storage and demand  
8           response programs, including any impact  
9           on energy savings, electric bills, peak load  
10          reduction, electric reliability, integration of  
11          renewable resources, and the environment.

12          “(iv) REQUIREMENTS.—In carrying  
13          out this paragraph, the Secretary shall re-  
14          quire that grid-enabled water heaters be  
15          equipped with communication capability to  
16          enable the grid-enabled water heaters to  
17          participate in ancillary services programs if  
18          the Secretary determines that the tech-  
19          nology is available, practical, and cost-ef-  
20          fective.”;

21          (2) in section 332(a) (42 U.S.C. 6302(a))—

22                  (A) in paragraph (5), by striking “or” at  
23          the end;

24                  (B) in the first paragraph (6), by striking  
25          the period at the end and inserting a semicolon;

1           (C) by redesignating the second paragraph  
2 (6) as paragraph (7);

3           (D) in subparagraph (B) of paragraph (7)  
4 (as so redesignated), by striking the period at  
5 the end and inserting “; or”; and

6           (E) by adding at the end the following:

7 “(8) for any person to—

8           “(A) activate an activation lock for a grid-  
9 enabled water heater with knowledge that such  
10 water heater is not used as part of an electric  
11 thermal storage or demand response program;

12           “(B) distribute an activation key for a  
13 grid-enabled water heater with knowledge that  
14 such activation key will be used to activate a  
15 grid-enabled water heater that is not used as  
16 part of an electric thermal storage or demand  
17 response program;

18           “(C) otherwise enable a grid-enabled water  
19 heater to operate at its designed specification  
20 and capabilities with knowledge that such water  
21 heater is not used as part of an electric thermal  
22 storage or demand response program; or

23           “(D) knowingly remove or render illegible  
24 the label of a grid-enabled water heater de-  
25 scribed in section 325(e)(6)(A)(ii)(V).”;

1 (3) in section 333(a) (42 U.S.C. 6303(a))—

2 (A) by striking “section 332(a)(5)” and in-  
3 serting “paragraph (5), (6), (7), or (8) of sec-  
4 tion 332(a)”; and

5 (B) by striking “paragraph (1), (2), or (5)  
6 of section 332(a)” and inserting “paragraph  
7 (1), (2), (5), (6), (7), or (8) of section 332(a)”;  
8 and

9 (4) in section 334 (42 U.S.C. 6304)—

10 (A) by striking “section 332(a)(5)” and in-  
11 serting “paragraph (5), (6), (7), or (8) of sec-  
12 tion 332(a)”; and

13 (B) by striking “section 332(a)(6)” and in-  
14 serting “section 332(a)(7)”.

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