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**SUBSTITUTE HOUSE BILL 2771**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** House Committee on Local Government (originally sponsored by Representatives Chappell, Brumsickle, Chandler, Sehlin, Hansen, L. Thomas, McMorris, Fuhrman, Dyer, Schoesler, Sheahan, Holm and Basich)

Read first time 02/04/94.

1 AN ACT Relating to fire protection district authorities; amending  
2 RCW 70.94.650; and adding a new section to chapter 52.12 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 52.12 RCW  
5 to read as follows:

6 Without obtaining a permit issued under RCW 70.94.650, fire  
7 protection district fire fighters may set fire to structures located  
8 outside of urban growth areas in counties that plan under the  
9 requirements of RCW 36.70A.040, and outside of any city with a  
10 population of ten thousand or more in all other counties, for  
11 instruction in methods of fire fighting, if all of the following  
12 conditions are met:

13 (1) The fire conforms with any other permits, licenses, or  
14 approvals that are required;

15 (2) The fire is not located in an area that is declared to be in an  
16 air pollution episode or any stage of an impaired air quality as  
17 defined in RCW 70.94.715 and 70.94.473;

18 (3) Nuisance laws are applicable to the fire, including nuisances  
19 related to the unreasonable interference with the enjoyment of life and

1 property and the depositing of particulate matter or ash on other  
2 property;

3 (4) Notice of the fire is provided to the owners of property  
4 adjoining the property on which the fire will occur, to other persons  
5 who potentially will be impacted by the fire, and to additional persons  
6 in a broader manner as specifically requested by the local air  
7 pollution control agency or the department of ecology;

8 (5) Each structure that is proposed to be set on fire must be  
9 identified specifically as a structure to be set on fire. Each other  
10 structure on the same parcel of property that is not proposed to be set  
11 on fire must be identified specifically as a structure not to be set on  
12 fire; and

13 (6) Before setting a structure on fire, a good-faith inspection is  
14 conducted to determine if materials containing asbestos are present,  
15 the inspection is documented in writing and forwarded to the  
16 appropriate local air authority or the department of ecology if there  
17 is no local air authority, and asbestos that is found is removed as  
18 required by state and federal laws.

19 **Sec. 2.** RCW 70.94.650 and 1993 c 353 s 1 are each amended to read  
20 as follows:

21 (1) Any person who proposes to set fires in the course of

22 (a) weed abatement,

23 (b) instruction in methods of fire fighting, except training to  
24 fight structural fires as provided in section 1 of this act and except  
25 forest fire training, or

26 (c) agricultural activities shall obtain a permit from an air  
27 pollution control authority, the department of ecology, or a local  
28 entity delegated permitting authority under RCW 70.94.654. General  
29 permit criteria of state-wide applicability shall be established by the  
30 department, by rule, after consultation with the various air pollution  
31 control authorities. Permits shall be issued under this section based  
32 on seasonal operations or by individual operations, or both. All  
33 permits shall be conditioned to insure that the public interest in air,  
34 water, and land pollution and safety to life and property is fully  
35 considered. In addition to any other requirements established by the  
36 department to protect air quality pursuant to other laws, applicants  
37 for permits must show that the setting of fires as requested is the  
38 most reasonable procedure to follow in safeguarding life or property

1 under all circumstances or is otherwise reasonably necessary to  
2 successfully carry out the enterprise in which the applicant is  
3 engaged, or both. All burning permits will be designed to minimize air  
4 pollution insofar as practical. Nothing in this section shall relieve  
5 the applicant from obtaining permits, licenses, or other approvals  
6 required by any other law. An application for a permit to set fires in  
7 the course of agricultural burning for controlling diseases, insects,  
8 weed abatement or development of physiological conditions conducive to  
9 increased crop yield, shall be acted upon within seven days from the  
10 date such application is filed. The department of ecology and local  
11 air authorities shall provide convenient methods for issuance and  
12 oversight of agricultural burning permits. The department and local  
13 air authorities shall, through agreement, work with counties and cities  
14 to provide convenient methods for granting permission for agricultural  
15 burning, including telephone, facsimile transmission, issuance from  
16 local city or county offices, or other methods.

17 (2) Permit fees shall be assessed for burning under this section  
18 and shall be collected by the department of ecology, the appropriate  
19 local air authority, or a local entity delegated permitting authority  
20 pursuant to RCW 70.94.654 at the time the permit is issued. All fees  
21 collected shall be deposited in the air pollution control account  
22 created in RCW 70.94.015, except for that portion of the fee necessary  
23 to cover local costs of administering a permit issued under this  
24 section. Fees shall be set by rule by the permitting agency at the  
25 level determined by the task force created by subsection (4) of this  
26 section, but shall not exceed two dollars and fifty cents per acre to  
27 be burned. After fees are established by rule, any increases in such  
28 fees shall be limited to annual inflation adjustments as determined by  
29 the state office of the economic and revenue forecast council.

30 (3) Conservation districts and the Washington State University  
31 agricultural extension program in conjunction with the department shall  
32 develop public education material for the agricultural community  
33 identifying the health and environmental effects of agricultural  
34 outdoor burning and providing technical assistance in alternatives to  
35 agricultural outdoor burning.

36 (4) An agricultural burning practices and research task force shall  
37 be established under the direction of the department. The task force  
38 shall be composed of a representative from the department who shall  
39 serve as chair; one representative of eastern Washington local air

1 authorities; three representatives of the agricultural community from  
2 different agricultural pursuits; one representative of the department  
3 of agriculture; two representatives from universities or colleges  
4 knowledgeable in agricultural issues; one representative of the public  
5 health or medical community; and one representative of the conservation  
6 districts. The task force shall identify best management practices for  
7 reducing air contaminant emissions from agricultural activities and  
8 provide such information to the department and local air authorities.  
9 The task force shall determine the level of fees to be assessed by the  
10 permitting agency pursuant to subsection (2) of this section, based  
11 upon the level necessary to cover the costs of administering and  
12 enforcing the permit programs, to provide funds for research into  
13 alternative methods to reduce emissions from such burning, and to the  
14 extent possible be consistent with fees charged for such burning  
15 permits in neighboring states. The fee level shall provide, to the  
16 extent possible, for lesser fees for permittees who use best management  
17 practices to minimize air contaminant emissions. The task force shall  
18 identify research needs related to minimizing emissions from  
19 agricultural burning and alternatives to such burning. Further, the  
20 task force shall make recommendations to the department on priorities  
21 for spending funds provided through this chapter for research into  
22 alternative methods to reduce emissions from agricultural burning.

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