

# HOUSE BILL REPORT

## ESHB 1034

---

---

**As Passed House:**

March 13, 2001

**Title:** An act relating to outdoor burning.

**Brief Description:** Changing outdoor burning provisions.

**Sponsors:** By House Committee on Agriculture & Ecology (originally sponsored by Representatives Pennington, Mielke and Schindler).

**Brief History:**

**Committee Activity:**

Agriculture & Ecology: 1/25/01, 2/23/01 [DPS].

**Floor Activity:**

Passed House: 3/13/01, 94-0.

**Brief Summary of Engrossed Substitute Bill**

- Allows local air authorities and counties to relax prohibitions against outdoor burning in portions of urban growth areas not within incorporated city limits or portions of urban growth areas that do not have a general population density over 1,000 people per square mile.
- Directs local air authorities to adopt rules regarding outdoor containers.

---

### HOUSE COMMITTEE ON AGRICULTURE & ECOLOGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives G. Chandler, Republican Co-Chair; Linville, Democratic Co-Chair; B. Chandler, Delvin, Dunshee, Grant, Hunt, Kirby, Quall, Roach, Schoesler and Sump.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Cooper, Democratic Vice Chair.

**Staff:** Jason Callahan (786-7117).

**Background:**

The Clean Air Act is a federal law enacted in 1970 to create a nationwide framework for controlling air pollution. In 1990 Congress added significant amendments to the Clean Air Act aimed at improving air quality in metropolitan areas that currently violate health-based standards. The 1990 amendments set acceptable standard levels for various air pollutants, called National Ambient Air Quality Standards. Pollutants with established national standards include ozone, carbon monoxide, and toxins. If the presence of a pollutant exceeds the acceptable level in a metropolitan area, the United States Environmental Protection Agency (US EPA) designates that area a nonattainment area. Nonattainment areas are subject to federal, state, and local regulations aimed at reducing the amount of the pollutant in the air.

In 1991 legislation was enacted in Washington to immediately disallow outdoor burning in any designated nonattainment or maintenance area for the chemicals released by burning. These chemicals are reported by the Washington Department of Ecology (DOE) to include carbon monoxide, sulfur dioxide, nitrogen oxides, particulate matter, and various toxic substances. The Legislature defined outdoor burning as the combustion of material of any type in an open fire or in an outdoor container without providing for the control of combustion or the control of emissions from the combustion. The 1991 legislation prohibited outdoor burning in any urban growth area defined by the Growth Management Act and in any city with a population greater than 10,000 that is threatened to exceed federal air quality standards and has a reasonable available alternative to burning. The latest date for these burning prohibitions to take effect was on December 31, 2000. The 1998 Legislature extended this deadline to December 31, 2006, for the urban growth area of cities with a population fewer than 5,000 that are not within or contiguous to an actual or threatened nonattainment area.

Currently in Washington, outdoor burning is only allowed if it fits a statutory exception (i.e. storm debris burning), if it occurs in cities not within an urban growth area, or if it occurs within a city with a population fewer than 5,000 that is not contiguous with a nonattainment area.

---

### **Summary of Bill:**

Local air authorities may exempt urban growth areas within their jurisdiction from the prohibition against outdoor burning if the urban growth area is not: in an area where the ambient air quality standards exceed federal or state levels for the pollutants emitted by outdoor burning; within the boundaries of an incorporated city; and in a portion of the urban growth area with a general population density of over 1,000 people per square mile.

A county may exempt an urban growth area within its borders from the burning prohibition, after consultation with the DOE, if the county is not served by an active local air authority. The county may only relax the prohibition on outdoor burning in

urban growth areas in an area where the ambient air quality standards exceed federal or state levels for the pollutants emitted by outdoor burning, outside the boundaries of an incorporated city, and outside of portions of the urban growth area with a general population density of over 1,000 people per square mile. The application of the outdoor burning prohibition is delayed until December 31, 2006, for areas within the urban growth areas of cities with a population of 5,000 or fewer that are not within or contiguous with a nonattainment or maintenance area.

Local air authorities are to adopt rules regarding the use and kind of outdoor burning containers that may be used within their jurisdiction.

---

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** (Original bill) Final authority for deciding outdoor burning issues should be at the local level, where the state can be free to offer input. Many incorporated cities have incorporated areas and areas within their urban growth area that are rural in character and should be allowed to conduct outdoor burning. Many citizens must travel great distances to dispose of material that they once were able to burn. Driving a vehicle these distances is worse for the air quality than outdoor burning. Decisions regarding whether such alternative disposal facilities are reasonably economic should be made on the local level.

**Testimony Against:** (Original bill) The air can not successfully absorb and dilute more pollutants. Outdoor burning in urban areas is especially critical since people do not want to inhale their neighbor's pollution. Health problems associated with unclean air can arise at pollutant levels well below federal standards. The Federal Clean Air Act delegates authority over air quality to the state, which then delegates portions of that authority to the local air authorities. There is no provision for delegating that responsibility to a county, so if a county allows burning, the state must find other methods for improving overall air quality. The existing laws and prohibitions have just recently taken effect, and the state should wait to see the results before changing the law.

**Testified:** (In support) Mike Ryherd, Puget Sound Clean Air Agency.

(With concerns) Stu Clark, Department of Ecology; and Harriet Ammann, Department of Health, Environmental Health Assessments.

(Opposed) Nick Federici, Washington State Lung Association.

