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HOUSE BILL 1034

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Pennington, Mielke and Schindler

Read first time 01/11/2001. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to outdoor burning; and amending RCW 70.94.743  
2 and 70.94.745.

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

4 **Sec. 1.** RCW 70.94.743 and 1998 c 68 s 1 are each amended to read  
5 as follows:

6 (1) Consistent with the policy of the state to reduce outdoor  
7 burning to the greatest extent practical:

8 (a) Outdoor burning shall not be allowed in any area of the  
9 state where federal or state ambient air quality standards are  
10 exceeded for pollutants emitted by outdoor burning.

11 (b) Outdoor burning shall not be allowed in any urban growth  
12 area as defined by RCW 36.70A.030, or any city of the state having  
13 a population greater than ten thousand people if such cities are  
14 threatened to exceed state or federal air quality standards, and  
15 alternative disposal practices consistent with good solid waste  
16 management are reasonably available or practices eliminating  
17 production of organic refuse are reasonably available. (~~In no~~  
18 ~~event shall such burning be allowed after December 31, 2000,~~

1 ~~except that within the urban growth areas for cities having a~~  
2 ~~population of less than five thousand people, that are neither~~  
3 ~~within nor contiguous with any nonattainment or maintenance area~~  
4 ~~designated under the federal clean air act, in no event shall such~~  
5 ~~burning be allowed after December 31, 2006.)~~)

6 (c) Notwithstanding any other provision of this section,  
7 outdoor burning may be allowed for the exclusive purpose of  
8 managing storm or flood-related debris. The decision to allow  
9 burning shall be made by the entity with permitting jurisdiction  
10 as determined under RCW 70.94.660 or 70.94.755. If outdoor burning  
11 is allowed in areas subject to (a) or (b) of this subsection, a  
12 permit shall be required, and a fee may be collected to cover the  
13 expenses of administering and enforcing the permit. All conditions  
14 and restrictions pursuant to RCW 70.94.750(1) and 70.94.775 apply  
15 to outdoor burning allowed under this section.

16 (2) "Outdoor burning" means the combustion of material of any  
17 type in an open fire or in an outdoor container without providing  
18 for the control of combustion or the control of emissions from the  
19 combustion. Local air authorities shall adopt rules regarding the  
20 use and kind of outdoor containers that may be used within their  
21 jurisdictions.

22 (3) This section shall not apply to silvicultural burning used  
23 to improve or maintain fire dependent ecosystems for rare plants  
24 or animals within state, federal, and private natural area  
25 preserves, natural resource conservation areas, parks, and other  
26 wildlife areas.

27 **Sec. 2.** RCW 70.94.745 and 1995 c 206 s 1 are each amended to read  
28 as follows:

29 (1) It shall be the responsibility and duty of the department  
30 of natural resources, department of ecology, department of  
31 agriculture, fire districts, and local air pollution control  
32 authorities to establish, through regulations, ordinances, or  
33 policy, a limited burning permit program.

34 (2) The permit program shall apply to residential and land  
35 clearing burning in the following areas:

36 (a) In the nonurban areas of any county with an unincorporated  
37 population of greater than fifty thousand; and

1 (b) In any city and urban growth area that is not otherwise  
2 prohibited from burning pursuant to RCW 70.94.743.

3 (3) The permit program shall apply only to land clearing  
4 burning in the nonurban areas of any county with an unincorporated  
5 population of less than fifty thousand.

6 (4) The permit program may be limited to a general permit by  
7 rule, or by verbal, written, or electronic approval by the  
8 permitting entity.

9 (5) Notwithstanding any other provision of this section,  
10 neither a permit nor the payment of a fee shall be required for  
11 outdoor burning for the purpose of disposal of tumbleweeds blown  
12 by wind. Such burning shall not be conducted during an air  
13 pollution episode or any stage of impaired air quality declared  
14 under RCW (~~70.94.714~~) 70.94.715. This subsection (5) shall only  
15 apply within counties with a population less than two hundred  
16 fifty thousand.

17 (6) Burning shall be prohibited in an area when an alternate  
18 technology or method of disposing of the organic refuse is  
19 available, reasonably economical, and less harmful to the  
20 environment. The department shall define the term "reasonably  
21 economical" in a report to the legislature by December 1, 2002. In  
22 developing this definition, the department shall consult with  
23 local air authorities where they exist, and with the governing  
24 bodies of individual counties where no local air authority  
25 exists. The term may not be adopted by rule until the legislature  
26 has had an opportunity to review the definition. It is the policy  
27 of this state to foster and encourage development of alternate  
28 methods or technology for disposing of or reducing the amount of  
29 organic refuse.

30 (7) Incidental agricultural burning must be allowed without  
31 applying for any permit and without the payment of any fee if:

32 (a) The burning is incidental to commercial agricultural  
33 activities;

34 (b) The operator notifies the local fire department within the  
35 area where the burning is to be conducted;

36 (c) The burning does not occur during an air pollution episode  
37 or any stage of impaired air quality declared under RCW 70.94.715;  
38 and

1 (d) Only the following items are burned:

2 (i) Orchard prunings;

3 (ii) Organic debris along fence lines or irrigation or drainage  
4 ditches; or

5 (iii) Organic debris blown by wind.

6 (8) As used in this section, "nonurban areas" are  
7 unincorporated areas within a county that is not designated as an  
8 urban growth area under chapter 36.70A RCW.

9 (9) Nothing in this section shall require fire districts to  
10 enforce air quality requirements related to outdoor burning,  
11 unless the fire district enters into an agreement with the  
12 department of ecology, department of natural resources, a local  
13 air pollution control authority, or other appropriate entity to  
14 provide such enforcement.

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