
SUBSTITUTE SENATE BILL 5019

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Natural Resources, Parks & Shorelines
(originally sponsored by Senators Jacobsen and Patterson)

READ FIRST TIME 02/07/01.

1 AN ACT Relating to controlling wildfires through emergency
2 restrictions on outdoor burning; adding a new section to chapter
3 48.48 RCW; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature intends by this act to
6 allow for a procedure that will help prevent wildfires during
7 times of extreme fire danger by allowing some prohibitions on
8 outdoor burning. The legislature does not intend for this power to
9 be utilized to deal with air pollution or public health
10 concerns. Those problems are addressed through the Washington clean
11 air act, chapter 70.94 RCW.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.48
13 RCW to read as follows:

14 (1) Whenever the director of fire protection finds that
15 conditions of extreme fire hazard exist and that state resources
16 or the protection of life and property may be in danger due to

1 wildfire, the director of fire protection may recommend to the
2 governor that the governor forbid outdoor burning on public and
3 private land within specific portions of the state.

4 (2) Prior to making such a recommendation to the governor, the
5 director of fire protection must consult with:

6 (a) The commissioner of public lands;

7 (b) The director of the department of ecology;

8 (c) The director of the department of agriculture; and

9 (d) The director of the state parks and recreation commission.

10 (3) Upon receiving such a recommendation from the director of
11 fire protection, and if the governor finds that state resources or
12 the protection of life and property are in danger due to wildfire,
13 then the governor may issue an executive order forbidding outdoor
14 burning within specific portions of the state. The order is
15 effective until rescinded by the governor. The order may allow for
16 specific exceptions to be made where the governor determines that
17 certain outdoor burning will not unduly endanger state resources
18 nor the protection of life and property, and subject to
19 limitations and conditions as recommended by the director of fire
20 protection. Such exceptions may be made prior to issuance of the
21 order and also at any time the order is in effect.

22 (4) It is unlawful for any person to conduct or cause to be
23 conducted outdoor burning at any time and place that is forbidden
24 by an executive order issued under subsection (3) of this
25 section. An intentional violation of this section is a gross
26 misdemeanor. A knowing violation of this section is a class 1 civil
27 infraction under chapter 7.80 RCW. For the purposes of this
28 subsection, the terms "intentional violation" and "knowing
29 violation" have the same meaning as defined in RCW 9A.08.010.

30 (5) In addition to the penalty provided in subsection (4) of
31 this section, any injured party may bring a civil cause of action
32 in superior court for a violation of an executive order issued
33 under subsection (3) of this section. A person may be liable under
34 such an action for actual damages and reasonable attorneys' fees,
35 court costs, and investigative costs incurred in bringing the
36 action.

37 (6) For the purposes of this section, "outdoor burning" means

1 the combustion of material of any type in an open fire or in an
2 outdoor container.

3 (7) The chief of the Washington state patrol, through the
4 director of fire protection, may adopt rules necessary to
5 implement this section.

6 (8) The provisions of this section may be enforced by any
7 general or limited authority Washington peace officer, as those
8 terms are defined in RCW 10.93.020, and by a district, city,
9 county, or state fire authority.

10 (9) Nothing in this section shall be construed as authorizing a
11 recommendation to forbid outdoor burning nor an order to forbid
12 outdoor burning for purposes other than to control wildfires. This
13 section does not authorize such recommendations or orders for air
14 pollution nor public health reasons, which are regulated under the
15 Washington clean air act, chapter 70.94 RCW.

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