

HOUSE BILL REPORT

HB 1439

As Reported by House Committee On:

Commerce & Labor

Title: An act relating to seller disclosure of the presence of uncertified wood stoves or uncertified fireplace inserts.

Brief Description: Requiring seller disclosure of the presence of uncertified wood stoves or uncertified fireplace inserts.

Sponsors: Representatives Kenney, Conway, Chandler, Tom, Kagi, Wood and Wallace.

Brief History:

Committee Activity:

Commerce & Labor: 2/3/03, 2/10/03 [DP].

Brief Summary of Bill

- Requires a seller of residential real property to include disclosures about uncertified wood stove and fireplace inserts on the real property transfer disclosure statement given to the buyer.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Chandler, Ranking Minority Member; Holmquist, Hudgins and Kenney.

Minority Report: Without recommendation. Signed by 2 members: Representatives Condotta, Assistant Ranking Minority Member; and Crouse.

Staff: Chris Cordes (786-7103).

Background:

Real Property Transfer Disclosure Statements

Sellers of residential real property must, under certain circumstances, provide the buyer with a transfer disclosure statement. This disclosure requirement applies only to

residential real property transfers. "Residential real property" means:

- Real property with one to four dwelling units.
- Residential condominiums and timeshares (except when subject to other disclosure laws).
- A mobile or manufactured home that is personal property.

The seller is not required to provide the disclosure statement if the buyer has waived the right to receive it.

The statute specifies the format and questions that the seller must answer. The form includes a statement that disclosure is being made concerning the condition of the property and is provided based on the seller's actual knowledge of the property's condition at the time the form is completed. The disclosures pertain to:

- title;
- water;
- sewer/septic system;
- structural (roof, additions, remodeling, including information about defects in various amenities such as wood stoves and fireplaces);
- systems and fixtures (electrical, plumbing, heating and cooling, etc.);
- common interest (homeowners' association and/or assessments); and
- general (settling, soil or water problems, previous damage, hazardous materials).

Unless the buyer waives his or her rights, the seller must make the required disclosure not later than five business days after mutual acceptance of a written purchase agreement and must comply with specified obligations to update the information provided. The buyer has three business days, or other time period agreed to, from the seller's delivery of the disclosure statement to rescind the purchase agreement. The buyer's other option is to accept and approve the disclosure statement.

After a sale closes (the buyer has paid the purchase price or down payment and the conveyance document has been delivered and recorded), the seller's obligation to deliver the disclosure statement and the buyer's rights under the disclosure law terminate.

Regulation of Wood Stoves and Fireplace Inserts

Under the Washington Clean Air Act (Act), only certified wood stoves or fireplace inserts may be sold. The Act requires these stoves and inserts to meet a specified particulate air contaminant emission standard under test methodologies of the U.S. Environmental Protection Agency. Department of Ecology rules define a wood stove as "certified" if it meets the required emission performance standards when tested by an accredited independent laboratory and is labeled as required. A person violating the Act is subject to civil and criminal penalties.

A \$30 fee is imposed on the retail sale of a wood stove or fireplace insert, to be collected

in conjunction with retail sales tax. This fee is to be used to fund a wood stove education program and for enforcement of the wood stove program.

Summary of Bill:

The residential real property transfer disclosure statement form is amended to include questions about uncertified wood stoves or fireplace inserts. When a seller of residential real property provides this disclosure, the seller must respond to questions about whether the property has an uncertified wood stove or fireplace insert, whether the wood stove or fireplace insert is subject to a registration or fee program, whether the wood stove or fireplace insert is currently registered, and whether applicable fees have been paid.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed.

Testimony For: A task force representing a broad base of stakeholders worked during the interim to make recommendations regarding indoor burning with the goal of improving air quality. The task force recommended a reasonable level of disclosure to a home buyer about uncertified wood stoves and fireplace inserts. These stoves and fireplaces are a major source of air pollution. These disclosures should help to reduce their use. There are currently no fee or certification programs for wood stoves, but such programs could be implemented under current law.

Testimony Against: None.

Testified: Representative Kenney, prime sponsor; Bob Mitchell, Washington Association of Realtors; Mike Ryherd and Dave Kircher, Puget Sound Clean Air Agency; Gary Smith, Independent Business Association; and Byron Dixon, Northwest Hearth, Patio, and Barbecue Association.