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**SUBSTITUTE SENATE BILL 6155**

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**State of Washington**

**58th Legislature**

**2004 Regular Session**

**By** Senate Committee on Agriculture (originally sponsored by Senators Parlette, Hewitt and Mulliken)

READ FIRST TIME 01/30/04.

1 AN ACT Relating to the prevention of horticultural pests and  
2 diseases; and amending RCW 70.94.745.

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

4 **Sec. 1.** RCW 70.94.745 and 1995 c 206 s 1 are each amended to read  
5 as follows:

6 (1) It (~~shall be~~) is the responsibility and duty of the  
7 department of natural resources, department of ecology, department of  
8 agriculture, fire districts, and local air pollution control  
9 authorities to establish, through regulations, ordinances, or policy,  
10 a limited burning permit program.

11 (2) The permit program (~~shall apply~~) applies to residential and  
12 land clearing burning in the following areas:

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

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

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

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

3 (5) Notwithstanding any other provision of this section, neither a  
4 permit nor the payment of a fee (~~(shall be)~~) is required for outdoor  
5 burning for the purpose of disposal of: (a) Tumbleweeds blown by wind;  
6 or (b) cultivated orchard tree tear-outs, whether or not other  
7 agricultural crops or trees will be replanted on the land, if the  
8 appropriate county legislative authority has determined in writing that  
9 the disposal will help prevent or control the spread of horticultural  
10 pests or diseases. Such burning shall not be conducted during an air  
11 pollution episode or any stage of impaired air quality declared under  
12 RCW (~~(70.94.714)~~) 70.94.715. This subsection (5) (~~(shall)~~) only  
13 (~~(apply)~~) applies within counties with a population less than two  
14 hundred fifty thousand.

15 (6) Burning (~~(shall be)~~) is prohibited in an area when an alternate  
16 technology or method of disposing of the organic refuse is available,  
17 reasonably economical, and less harmful to the environment. It is the  
18 policy of this state to foster and encourage development of alternate  
19 methods or technology for disposing of or reducing the amount of  
20 organic refuse.

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

23 (a) The burning is incidental to commercial agricultural  
24 activities;

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

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

29 (d) Only the following items are burned:

30 (i) Orchard prunings;

31 (ii) Organic debris along fence lines or irrigation or drainage  
32 ditches; or

33 (iii) Organic debris blown by wind.

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

37 (9) Nothing in this section (~~(shall)~~) requires fire districts to  
38 enforce air quality requirements related to outdoor burning, unless the

1 fire district enters into an agreement with the department of ecology,  
2 department of natural resources, a local air pollution control  
3 authority, or other appropriate entity to provide such enforcement.

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