

HOUSE BILL REPORT

SSB 5565

As Passed House - Amended:

April 9, 2009

Title: An act relating to limiting the use of certain solid fuel burning devices.

Brief Description: Regarding the use of certain solid fuel burning devices.

Sponsors: Senate Committee on Environment, Water & Energy (originally sponsored by Senator Rockefeller).

Brief History:

Committee Activity:

Environmental Health: 3/25/09 [DPA].

Floor Activity

Passed House - Amended: 4/9/09, 66-31.

Brief Summary of Substitute Bill (As Amended by House)

- Allows local air pollution control authorities or the Department of Ecology to prohibit the use of non-certified solid fuel burning devices as a measure to help meet air quality standards in an attainment plan.

HOUSE COMMITTEE ON ENVIRONMENTAL HEALTH

Majority Report: Do pass as amended. Signed by 7 members: Representatives Campbell, Chair; Chase, Vice Chair; Dickerson, Dunshee, Finn, Hudgins and Rolfes.

Minority Report: Do not pass. Signed by 3 members: Representatives Shea, Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Kretz.

Staff: Pam Madson (786-7111)

Background:

The federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to set air quality standards for certain pollutants that harm public health and the environment. One

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of those pollutants is fine particulate matter. In Washington wood smoke has been identified as a major source of fine particulate matter that can negatively affect air quality standards in an area. The EPA lowered the standard for this pollutant by 46 percent in 2006.

In 2007 the Legislature directed the Department of Ecology (DOE) to convene a work group to recommend practical and cost-effective measures to reduce effects of wood smoke. The work group made recommendations to update laws allowing curtailment of activities that increase wood smoke pollution. The Legislature adopted updates to the law in 2008. A longer term recommendation of the work group was to reduce the number of uncertified solid fuel burning devices in use in the state. The work group's report also identified areas of the state that were likely to violate the standards for fine particulate matter in 2008-09.

The EPA may designate an area as an area of nonattainment if there is a pattern of failure to reach and maintain air quality standards over a period of time. When an area is designated as a nonattainment area, the state in which the area is located must submit a plan to reach attainment. This designation can cause additional requirements for all sources emitting fine particulate matter, including industrial and household sources.

During the winter months, more than half of Washington's statewide fine particulate matter comes from fireplaces and inserts, wood stoves, and pellet stoves. Newer certified wood burning devices are much cleaner burning than older devices. In areas of nonattainment, local air agencies and the DOE may prohibit the use of non-certified fireplace inserts and wood stoves as a contingency measure to meet the air quality standards if an area is failing to make progress toward achieving attainment and emissions from solid fuel burning devices are a contributing factor to the failure to make further progress.

Summary of Amended Bill:

A local air pollution control authority or the DOE may prohibit the use of solid fuel burning devices that do not meet certain certification requirements as an additional measure to achieve and maintain federal air quality standards in an area that is designated as not meeting the standards. Before a prohibition may be declared, the local air agency or DOE must seek input from city, county, or jurisdictional health departments affected by the proposed prohibition and must make the following written findings:

- The area is designated a nonattainment area for fine particulate matter or is in maintenance status under that designation.
- The emissions from wood burning devices are a major contributing factor for violating federal air quality standards for fine particulate matter.
- The area has an adequately funded program to help low-income households obtain an adequate source of heat including certified wood burning devices.

Cities, counties, and jurisdictional health departments must cooperate with local air pollution control authorities to implement a prohibition on the use of uncertified wood burning devices when a prohibition is declared. If a city or county government within an area of nonattainment under the jurisdiction of the Department of Ecology expresses concerns with prohibiting non-certified wood stoves and other non-certified solid fuel burning devices, the Department must publish on its website reasons for the prohibition including a response to the local government's concerns.

A jurisdictional health department is a health department of a city, county, city-county, or a district public health department.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill adds another tool to the tool kit for regional agencies and the DOE. The consequences of not meeting air quality standards can be very damaging to economic growth. If a plan to get back into attainment is not sufficient, the EPA has the hammer ultimately and can impose solutions that can be harmful to a local economy. These solutions can restrict expansion of local industrial facilities and can result in the loss of highway funds if air quality is not improved under a state plan. Particulates are a known health hazard. The central Puget Sound is in the top 5 percent for cancer risk from air toxics. Diesel emissions and wood smoke are the top two culprits. This tool will help deal with the problem. This is intended to be an additional tool. Adding a requirement that local governments provide a resolution supporting this action could imply a veto over the use of this tool. The bill requires consultation and input from local governments and local health authorities, which is important. It would not be helpful to subject the power to act to a formal resolution process. The EPA toughened its standards in 2006, which makes it harder to prevent pollution violations in some areas. Current law allows this strategy when other efforts have failed. The bill allows use of this important tool to help an area come back into attainment. Parts of Pierce County are in nonattainment with a couple of other areas close to nonattainment.

(Opposed) None.

Persons Testifying: Senator Rockefeller, prime sponsor; Marcia Fromhold, Puget Sound Clean Air Agency; Marshall Taylor, Department of Ecology; Carolyn Logue, Northwest Hearth, Patio, and Barbeque Association; and Gary Smith, Independent Business Association.

Persons Signed In To Testify But Not Testifying: None.