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HOUSE BILL 1265

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State of Washington

61st Legislature

2009 Regular Session

By Representatives Warnick, Hinkle, Short, Ross, McCune, Johnson, Blake, Newhouse, Kretz, and Condotta

Read first time 01/16/09. Referred to Committee on Environmental Health.

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

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

3 **Sec. 1.** RCW 70.94.743 and 2004 c 213 s 1 are each amended to read  
4 as follows:

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

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

10 (b) Outdoor burning shall not be allowed in any urban growth area  
11 as defined by RCW 36.70A.030, or any city of the state having a  
12 population greater than ten thousand people if such cities are  
13 threatened to exceed state or federal air quality standards, and  
14 alternative disposal practices consistent with good solid waste  
15 management are reasonably available or practices eliminating production  
16 of organic refuse are reasonably available. In no event shall such  
17 burning be allowed after December 31, 2000, except that within the  
18 urban growth areas for cities having a population of less than five  
19 thousand people, that are neither within nor contiguous with any

1 nonattainment or maintenance area designated under the federal clean  
2 air act, in no event shall such burning be allowed after December 31,  
3 2006.

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

14 (d) Notwithstanding any other provision of this section, outdoor  
15 burning of organic debris shall be allowed within urban growth areas as  
16 defined by RCW 36.70A.030 on the first and third Saturdays in November,  
17 provided that:

18 (i) Legislative authorities for counties that designate urban  
19 growth areas under RCW 36.70A.110 may choose not to allow outdoor  
20 burning of organic debris on the first and third Saturdays in their  
21 area of jurisdiction;

22 (ii) During an air pollution episode, outdoor burning of organic  
23 debris shall not be allowed within urban growth areas that are subject  
24 to the episode;

25 (iii) If a determination of impaired air quality has been made as  
26 provided in RCW 70.94.473, then outdoor burning of organic debris shall  
27 not be allowed within the urban growth area subject to such  
28 determination. The outdoor burning of organic debris shall not be  
29 allowed in these areas for the duration of the impaired air quality;

30 (iv) If burning is prohibited on either the first or third  
31 Saturdays in November pursuant to (d)(ii) or (iii) of this subsection,  
32 then outdoor burning of organic debris shall be allowed on the next  
33 Saturday when there is not an air pollution episode or determination of  
34 impaired air quality. If burning is prohibited on both the first and  
35 third Saturdays in November because of air pollution episodes, then  
36 outdoor burning of organic debris shall be allowed on the following two  
37 Saturdays when there is not an air pollution episode or determination  
38 of impaired air quality.

1       (e)(i) Outdoor burning that is normal, necessary, and customary to  
2 ongoing agricultural activities, that is consistent with agricultural  
3 burning authorized under RCW 70.94.650 and 70.94.656, is allowed within  
4 the urban growth area as defined in (b) of this subsection if the  
5 burning is not conducted during air (~~quality~~) pollution episodes, or  
6 where a determination of impaired air quality has been made as provided  
7 in RCW 70.94.473, and the agricultural activities preceded the  
8 designation as an urban growth area.

9       (ii) Outdoor burning of cultivated orchard trees, whether or not  
10 agricultural crops will be replanted on the land, shall be allowed as  
11 an ongoing agricultural activity under this section if a local  
12 horticultural pest and disease board formed under chapter 15.09 RCW, an  
13 extension office agent with Washington State University that has  
14 horticultural experience, or an entomologist employed by the department  
15 of agriculture, has determined in writing that burning is an  
16 appropriate method to prevent or control the spread of horticultural  
17 pests or diseases.

18       (2) "Outdoor burning" means the combustion of material of any type  
19 in an open fire or in an outdoor container without providing for the  
20 control of combustion or the control of emissions from the combustion.

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

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