

FINAL BILL REPORT

SHB 2326

C 219 L 12

Synopsis as Enacted

Brief Description: Protecting air quality that is impacted by high emitting solid fuel burning devices.

Sponsors: House Committee on Environment (originally sponsored by Representatives Jinkins, Ladenburg, Darneille, Fitzgibbon, Upthegrove, Seaquist, Moscoso, Green, Kagi, Billig, Tharinger, Pollet, Wylie, Reykdal, McCoy, Eddy, Hunt and Lytton).

House Committee on Environment
Senate Committee on Environment

Background:

Clean Air Act Emissions Standards.

The federal Clean Air Act requires the United States Environmental Protection Agency (EPA) to set air quality standards for certain pollutants that harm public health and the environment. One 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 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 to be imposed for all sources emitting fine particulate matter, including industrial and household sources.

Burn Bans.

In Washington, the Department of Ecology (Department) or the local air pollution control authority may impose a burn ban when it forecasts that fine particulate pollution levels will exceed the federal 24-hour standard of 35 micrograms per cubic meter. Burn bans are tiered, so the Department or the local air pollution control authority will typically first call a Stage One burn ban. If a first stage of impaired air quality has been in force and has not achieved sufficient reductions, and a forecast is made that fine particulate pollution levels will exceed the federal 24-hour standard of 25 micrograms per cubic meter, a Stage Two burn ban may be

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called. Under certain circumstances, the Department or the local air pollution control authority may call a Stage Two burn ban without first calling a Stage One burn ban.

Solid Fuel Burning Devices.

Washington's Clean Air Act contains laws about wood stoves and fireplaces, both of which are included in the term "solid fuel burning device." A solid fuel burning device is defined as any device for burning wood, coal, or any other nongaseous and nonliquid fuel, including a woodstove and fireplace. Prohibitions exist on burning a number of materials in a solid fuel burning device, including any substance, other than properly seasoned fuel wood, that emits dense smoke or obnoxious odors. To achieve and maintain attainment in areas of nonattainment for fine particulates under federal law, the Department or the local air pollution control authority may prohibit the use of solid fuel burning devices, except for fireplaces, woodstoves meeting standards in state law, and pellet stoves.

Prior to prohibiting the use of solid fuel burning devices, the Department or the local air pollution control authority must seek input from the affected local government, make written findings, and meet other requirements. The Department or the local air pollution control authority has sole authority for enforcing the prohibition.

Summary:

First and Second Stage Burn Bans.

The thresholds are lowered for determining when the Department of Ecology (Department) or a local air pollution control authority may call a first and second stage burn ban due to impaired air quality in an area of fine particulate nonattainment or in areas at risk of fine particulate nonattainment. A first stage burn ban for impaired air quality may be called when forecasted meteorological conditions are predicted to cause fine particulate levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 72 hours. When feasible, a first stage burn ban will only be called for the necessary portions of the county containing the nonattainment area or areas at risk for nonattainment.

In fine particulate nonattainment areas, or areas at risk for fine particulate nonattainment, a second stage burn ban may be called for the county containing the nonattainment area or areas at risk for nonattainment without calling a first stage burn ban only when certain requirements have been met and meteorological conditions are predicted to cause fine particulate levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 24 hours. When feasible, a second stage burn ban will only be called for the necessary portions of the county containing the nonattainment area or areas at risk for nonattainment.

An area at risk for nonattainment means an area where the three-year average of the annual ninety-eighth percentile of 24-hour fine particulate values is greater than 29 micrograms per cubic meter, based on the years 2008 through 2010 monitoring data.

Prohibitions on the Use of Solid Fuel Burning Devices.

The Department or a local air pollution control authority may prohibit the use of fireplaces in areas of nonattainment for fine particulates, if needed to meet federal requirements as a contingency measure in a state implementation plan for a fine particulate nonattainment area. However, a prohibition does not apply to a person in a residence or commercial establishment that does not have an adequate source of heat without burning wood.

The Department or a local air pollution control authority may prohibit the use of uncertified solid fuel burning devices in a nonattainment area if an area is designated as a nonattainment area as of January 1, 2015, or if required by the United States Environmental Protection Agency.

A city, county, or local health department may agree to assist the Department or a local air pollution control authority with enforcement of a prohibition on the use of solid fuel burning devices in a fine particulate nonattainment area.

"Prohibit the use" or "prohibition" are defined as the ability for the Department or a local air pollution control authority to include requiring disclosure of an uncertified device, removal, or rendering inoperable, as may be approved by rule by the Department or a local air pollution control authority for areas designated in nonattainment for fine particulates. The effective date of such a rule may not be prior to January 1, 2015. Any such prohibition may not include imposing separate time of sale obligations on the seller or buyer of real estate as part of a real estate transaction, except as provided by law.

Exception for Persons with a Detached Shop or Garage.

A person with a shop or garage that is detached from the main residence or commercial establishment, who does not have an adequate source of heat in the detached shop or garage without burning wood, is not required to adhere to a prohibition on the use of a solid fuel burning device issued by the Department or a local air pollution control authority.

Required Assistance and Education by the Department of Ecology.

By January 1, 2015, the Department or a local air pollution control authority is required to provide assistance, within existing resources, to households using solid fuel burning devices to reduce the emissions from those devices or change to a lower emission device. Prior to the effective date of a prohibition, the Department or a local air pollution control authority must provide public education in the nonattainment area regarding how households can reduce their emissions through cleaner burning practices, the importance of respecting burn bans, and opportunities for assistance in obtaining a cleaner device.

Report to Legislature.

The Department and local air agencies must report back to the appropriate standing committees of the Legislature by December 31, 2014, as well as every two years thereafter through 2018, on progress toward achieving attainment in areas currently in nonattainment, and on whether any other implementation tools are needed to achieve attainment.

Votes on Final Passage:

House 66 30
Senate 26 21 (Senate amended)
House 62 32 (House concurred)

Effective: June 7, 2012