

HOUSE BILL REPORT

SHB 2326

As Passed Legislature

Title: An act relating to protecting air quality that is impacted by high emitting solid fuel burning devices.

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).

Brief History:

Committee Activity:

Environment: 1/17/12, 1/26/12 [DPS].

Floor Activity:

Passed House: 2/10/12, 66-30.

Senate Amended.

Passed Senate: 3/2/12, 26-21.

Passed House: 3/5/12, 62-32.

Passed Legislature.

Brief Summary of Substitute Bill

- Authorizes the Department of Ecology (Ecology) or a local air pollution control authority to call a first stage of impaired air quality, as well as a second stage of impaired air quality, at a level below the federal standard in areas designated in nonattainment for fine particulates, or in areas at risk of nonattainment.
- Allows Ecology or a local air pollution control authority to prohibit the use of fireplaces in areas of nonattainment for fine particulate matter, if needed to meet federal requirements as a contingency measure in a state implementation plan, unless a person does not have an adequate source of heat without burning wood.
- Allows a city, county, or local health department to assist with enforcement of a prohibition on the use of solid fuel burning devices in a nonattainment area for fine particulates.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Provides an exemption from adhering to a prohibition on the use of a solid fuel burning device for a person with a detached shop or garage under certain conditions.
- Requires Ecology or a local air authority to provide education and assistance to households using solid fuel burning devices to reduce emissions prior to January 1, 2015.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Upthegrove, Chair; Tharinger, Vice Chair; Fitzgibbon, Hansen, Jenkins, Morris, Moscoso, Pollet, Takko and Wylie.

Minority Report: Do not pass. Signed by 7 members: Representatives Short, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Crouse, Nealey, Pearson, Shea and Taylor.

Staff: Anna Jackson (786-7194).

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 for all sources emitting fine particulate matter, including industrial and household sources.

Burn Bans.

In Washington, the Department of Ecology (Ecology) 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 Ecology 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 called. Under certain circumstances, Ecology 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 captured under 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 [RCW 70.94.453(5)]. 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, Ecology 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, Ecology or the local air pollution control authority must seek input from the affected local government, make written findings, and meet other requirements. Ecology or the local air pollution control authority has sole authority for enforcing the prohibition.

Summary of Substitute Bill:

First and Second Stage Burn Bans.

The thresholds for when the Department of Ecology (Ecology) 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, are lowered. 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 in current law 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.

Ecology 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.

Ecology or a local air pollution control authority may prohibit the use of uncertified devices in a nonattainment area if an area is designated as a nonattainment area as of January 1, 2015, or if required by the U.S. Environmental Protection Agency.

A city, county, or local health department may agree to assist Ecology 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 Ecology 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 Ecology 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 in RCW 64.06.020.

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 Ecology or a local air pollution control authority.

Required Assistance and Education by the Department of Ecology.

By January 1, 2015, Ecology 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, Ecology 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.

Ecology 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.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) Pierce County is currently in nonattainment under the federal Clean Air Act. This raises a number of concerns, ranging from health and human safety to significant negative economic impacts on businesses in areas of nonattainment due to more stringent environmental regulations. This is a practical bill that reflects the work and recommendations of a lengthy stakeholder effort on the part of the Puget Sound Clean Air Agency.

The stakeholder task force convened around the issue of nonattainment in Pierce County was comprised of a wide range of interested parties, and this task force came up with the recommendations contained in this bill. While approximately half of the air pollution during winter months in Pierce County comes from wood smoke, the task force has recognized the legislative direction included in prior bills to exempt wood stoves from a burn ban if it is a resident's only heat source. The committee should implement the task force's recommendations and pass this bill.

(Opposed) None.

Persons Testifying: Representative Jinkins, prime sponsor; Gary Smith, Independent Business Association; Craig Kenworthy, Puget Sound Clean Air Agency; and Anthony Chen, Tacoma-Pierce County Health Department.

Persons Signed In To Testify But Not Testifying: None.