

SENATE BILL REPORT

SHB 2326

As Reported by Senate Committee On:
Environment, February 21, 2012

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

Committee Activity: Environment: 2/15/12, 2/21/12 [DPA, DNP, w/oRec].

SENATE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass as amended.

Signed by Senators Nelson, Chair; Rolfes, Vice Chair; Chase, Fraser and Pridemore.

Minority Report: Do not pass.

Signed by Senators Ericksen, Ranking Minority Member; Honeyford.

Minority Report: That it be referred without recommendation.

Signed by Senator Morton.

Staff: Jan Odano (786-7486)

Background: Under the federal Clean Air Act, the U.S. Environmental Protection Agency (EPA) establishes national air quality standards, which are pollution limits for criteria pollutants of concern to public health and the environment. The EPA uses the following pollutants as indicators of air quality: carbon monoxide, lead, nitrogen dioxide, particulate matter 10 (PM10), particulate matter 2.5 (PM 2.5), ozone, and sulfur oxides.

A geographical area that exceeds the national standards for one or more criteria pollutants, or an area that contributes to the nearby air quality that does not meet the standards may be classified by EPA as being in nonattainment. Once a nonattainment designation is in effect,

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the state and local governments have three years to develop plans for attaining and maintaining the air quality standards. Currently, parts of Tacoma and Pierce County have been designated as nonattainment areas for PM_{2.5} or fine particulates that measure less than 2.5 microns. The majority of PM_{2.5} pollution is due to burning fuels that produce particulate matter. For Tacoma and Pierce County, wood smoke is the primary concern.

A local air agency or the Department of Ecology (DOE) may call a burn ban when it determines that the air quality is impaired or that the forecast for fine particulates will fail to meet national standards. The local air authority and DOE are solely responsible for enforcing burn bans. Cities, counties and local health jurisdictions must cooperate with the local air authority or department to implement burn bans, except with enforcement.

A first stage of impaired air quality is when the fine particulates exceed 35 micrograms per cubic meter for 24 hours, within 48 hours. Persons with an adequate source of heat are prohibited from using any uncertified wood-heating devices during a first-stage burn ban.

The second stage of impaired air quality occurs when a first-stage burn ban has not been sufficient to reduce increasing fine particulates. Second-stage impaired air quality occurs when fine particulates are at 25 micrograms per cubic meter for 24 hours, and conditions are not expected to improve for at least 24 hours or will worsen within 24 hours.

A second-stage burn ban may be called without calling a first-stage burn ban when fine particulates have exceeded 25 micrograms per cubic meter on a 24-hour average; meteorological conditions have caused levels to rise rapidly; meteorological conditions are predicted to cause fine particulate levels to reach or exceed 35 micrograms per cubic meter measured on a 24-hour average within 24 hours; and meteorological conditions are highly likely to prevent sufficient dispersion of fine particulates. When a second-stage burn ban is called, persons with an adequate source of heat are prohibited from using any wood heating devices.

In areas of nonattainment for fine particulates, a local air agency or DOE may prohibit the use of solid fuel burning devices except fireplaces, certified solid fuel burning devices, and pellet stoves, where the emissions from wood smoke are a major contributing factor, and the area has a program that assists low-income households to secure an adequate source of heat.

A person may not burn certain materials in a solid fuel-burning device. These materials include plastic, rubber products, treated wood, animals, paints, and any substance other than properly seasoned fuel wood.

Summary of Bill (Recommended Amendments): A first-stage burn ban may be called when fine particulate levels are predicted to reach or exceed 30 micrograms, for 24 hours within 72 hours, instead of 35 micrograms per cubic meter, for 24 hours within 48 hours.

Local air agencies and DOE may call a second-stage burn ban without calling a first-stage burn ban under certain conditions and when 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, instead of 35 micrograms per cubic meter.

A local air authority or DOE may ban the use of fireplaces as a contingency measure needed to meet a state implementation plan for a fine particulate nonattainment area.

Cities, counties, or local health jurisdictions may agree to assist with enforcing burn bans called by local air authority or DOE.

The terms, prohibit the use and prohibition, are defined to include requiring disclosure, removal, rendering inoperable, providing evidence of destruction, or similar requirements as approved in rules adopted by the local air authority or DOE. However, except as required under residential seller disclosure provisions, the rules may not impose requirements on buyers or sellers at the time of sale of residential real estate.

EFFECT OF CHANGES MADE BY ENVIRONMENT COMMITTEE (Recommended Amendments): Amends the definition of prohibit the use or prohibition so that rules adopted by a local air agency or DOE may not impose requirements on buyers or sellers at the time of sale of residential real estate, except as provided under the residential real estate disclosure requirements.

Removes the criteria for seasoned wood as having a moisture content of less than 20 percent.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Substitute House Bill: PRO: Pierce County is out of attainment for federal air quality standards. There are serious health and economic consequences from being in non-attainment. No industry can locate or expand within the area and meet the non-attainment requirements. The bill will allow implementation of community developed solutions. This will help to keep the economic engine of Pierce County going and attract and retain businesses. The workgroup looked at strategies implemented by other cities to address their non-attainment issues. One replaced old wood stoves and the other implemented burn bans. A key element is the moisture content of wood. Seasoned wood produces two to three times more heat than wet wood. In addition, burning wet wood produces 11 percent more emissions.

CON: It is unclear and there is no scientific evidence that lowering the trigger for burn bans is better. It will make a difference for people using woodstove who will not be able to burn wood during phase 2 ban. It doesn't make sense to increase the police force to enforce burn bans during these tight fiscal times. There needs to be a way to educate users of wood stoves about burn bans. The average user does not know the moisture content of their firewood. There is a downside to prohibiting the burning of wood with moisture content higher than 20 percent. The study on the efficacy of burn bans needs to be retained.

OTHER: The legislation needs to be consistent with the report of the Tacoma/Pierce County Air Quality Task Force. The task force looked at regulating real estate transactions requiring replacing or removing uncertified wood stoves at the time of sale. The idea was rejected by the task force. The amendment would clarify that all homes should be treated equally. It clarifies the point of sale issue.

Persons Testifying: PRO: Laurie Jenkins, prime sponsor; Craig Kenworthy, Executive Director, Puget Sound Clean Air Agency; Tom Pierson, Tacoma/Pierce County Chamber of Commerce; Gary Smith, Independent Business Assn.

CON: John Stuhlmiller, WA Farm Bureau.

OTHER: Bill Clarke, WA Realtors.