

# SENATE BILL REPORT

## SB 6102

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As of January 30, 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:** Senators Regala, Rolfes, Nelson, Fraser, Chase and Kline.

**Brief History:**

**Committee Activity:** Environment: 1/27/12.

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### SENATE COMMITTEE ON ENVIRONMENT

**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 doesn't meet the standards may be classified by EPA as being in nonattainment. Once a nonattainment designation is in effect, 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.

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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:** A first-stage burn ban may be called when fine particulate levels are predicted to reach or exceed 85 percent of the national standard for fine particulates, for 24 hours within 72 hours, instead of 35 micrograms per cubic meter, for 24 hours within 48 hours.

A second stage of impaired air quality occurs when the ambient level of fine particulates is at 70 percent of the national standard, and forecasted meteorological conditions are not expected to allow levels to fall below 70 percent of the national standard for 24 hours or to worsen, instead of 25 micrograms per cubic meter, for 24 hours average.

A second-stage burn ban may be called without calling a first-stage burn when fine particulates levels have reached or exceeded 70 percent of the national standard and meteorological conditions are predicted to cause fine particulate levels to reach or exceed 85 percent of the national standard, measured on a 24-hour average, within 24 hours, instead of 25 micrograms measured on a 24-hour average and 35 microgram measured on a 24-hour average.

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 DOE or local air authority.

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. Seasoned Fuel Wood is defined to mean firewood with a moisture content of no more than 20 percent.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: The bill would enable an air authority to call a burn ban before an area exceeds the national standards. EPA requires contingency plans in the state plan for approval by EPA. Wood smoke particulates are linked to cardiovascular and pulmonary disease, decreased heart and lung functions, heart attacks, asthma, and premature death. Pierce County's rate of respiratory illness and asthma are higher than the rest of the state. The ability to call a burn early may help to prevent some of these illnesses. Inefficient wood stoves create ambient air quality issues as well as indoor air quality concerns. These problems may be more likely to occur for families in the lower socio-economic strata. This is a particular problem from a social justice perspective. Businesses won't relocate or expand in an area of nonattainment. No one wants the federal government to tell us what to do. The restrictions resulting from nonattainment status could result in the loss of investment opportunities, businesses, and jobs, as well as impact tourism. Nonattainment would impact grants from the federal government for transportation. This protects the businesses interests and job creating businesses within the nonattainment area. It clarifies the authority to prohibit the use of a solid fuel burning device. Fireplaces contribute 15-20 percent of wood smoke during the winter months. Having contingency authority ban fireplaces would be used when other strategies don't work. The air quality issues are multijurisdictional and not easily solved. The bill provides a reasonable amount of authority for a very difficult problem.

**Persons Testifying:** PRO: Craig Kenworthy, Puget Sound Clean Air Agency, Gary Smith, Independent Business Assn.; Tom Pierson, Tacoma Pierce County Chamber of Commerce; Catherine Rudolph, Pierce County Assn. of Realtors; Dr. Anthony Chen, Pierce County Health Department; Carrie Nyssen, American Lung Association; Jake Fey, Tacoma City Council.