

ESHB 2785 - S AMD 709

By Senator McCoy

PULLED 03/03/2016

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 70.94.473 and 2012 c 219 s 1 are each amended to  
4 read as follows:

5 (1) Any person in a residence or commercial establishment which  
6 has an adequate source of heat without burning wood shall:

7 (a) Not burn wood in any solid fuel burning device whenever the  
8 department has determined under RCW 70.94.715 that any air pollution  
9 episode exists in that area;

10 (b) Not burn wood in any solid fuel burning device except those  
11 which are either Oregon department of environmental quality phase II  
12 or United States environmental protection agency certified or  
13 certified by the department under RCW 70.94.457(1) or a pellet stove  
14 either certified or issued an exemption by the United States  
15 environmental protection agency in accordance with Title 40, Part 60  
16 of the code of federal regulations, in the geographical area and for  
17 the period of time that a first stage of impaired air quality has  
18 been determined, by the department or any authority, for that area.

19 (i) A first stage of impaired air quality is reached when  
20 forecasted meteorological conditions are predicted to cause fine  
21 particulate levels to exceed thirty-five micrograms per cubic meter,  
22 measured on a twenty-four hour average, within forty-eight hours,  
23 except for areas of fine particulate nonattainment or areas at risk  
24 for fine particulate nonattainment;

25 (ii) A first stage burn ban for impaired air quality may be  
26 called for a county containing fine particulate nonattainment areas  
27 or areas at risk for fine particulate nonattainment, and when  
28 feasible only for the necessary portions of the county, when  
29 forecasted meteorological conditions are predicted to cause fine  
30 particulate levels to reach or exceed thirty micrograms per cubic  
31 meter, measured on a twenty-four hour average, within seventy-two  
32 hours; and

1 (c)(i) Not burn wood in any solid fuel burning device in a  
2 geographical area and for the period of time that a second stage of  
3 impaired air quality has been determined by the department or any  
4 authority, for that area. A second stage of impaired air quality is  
5 reached when a first stage of impaired air quality has been in force  
6 and has not been sufficient to reduce the increasing fine particulate  
7 pollution trend, fine particulates are at an ambient level of twenty-  
8 five micrograms per cubic meter measured on a twenty-four hour  
9 average, and forecasted meteorological conditions are not expected to  
10 allow levels of fine particulates to decline below twenty-five  
11 micrograms per cubic meter for a period of twenty-four hours or more  
12 from the time that the fine particulates are measured at the trigger  
13 level.

14 (ii) A second stage burn ban may be called without calling a  
15 first stage burn ban only when all of the following occur and shall  
16 require the department or the local air pollution control authority  
17 calling a second stage burn ban under this subsection to comply with  
18 the requirements of subsection (3) of this section:

19 (A) Fine particulate levels have reached or exceeded twenty-five  
20 micrograms per cubic meter, measured on a twenty-four hour average;

21 (B) Meteorological conditions have caused fine particulate levels  
22 to rise rapidly;

23 (C) Meteorological conditions are predicted to cause fine  
24 particulate levels to exceed the thirty-five micrograms per cubic  
25 meter, measured on a twenty-four hour average, within twenty-four  
26 hours; and

27 (D) Meteorological conditions are highly likely to prevent  
28 sufficient dispersion of fine particulate.

29 (iii) In fine particulate nonattainment areas or areas at risk  
30 for fine particulate nonattainment, a second stage burn ban may be  
31 called for the county containing the nonattainment area or areas at  
32 risk for nonattainment, and when feasible only for the necessary  
33 portions of the county, without calling a first stage burn ban only  
34 when (c)(ii)(A), (B), and (D) of this subsection have been met and  
35 meteorological conditions are predicted to cause fine particulate  
36 levels to reach or exceed thirty micrograms per cubic meter, measured  
37 on a twenty-four hour average, within twenty-four hours.

38 (2) Actions of the department and local air pollution control  
39 authorities under this section shall preempt actions of other state  
40 agencies and local governments for the purposes of controlling air

1 pollution from solid fuel burning devices, except where authorized by  
2 chapter 199, Laws of 1991.

3 (3)(a) The department or any local air pollution control  
4 authority that has called a second stage burn ban under the authority  
5 of subsection (1)(c)(ii) of this section shall, within ninety days,  
6 prepare a written report describing:

7 ~~((a))~~ (i) The meteorological conditions that resulted in their  
8 calling the second stage burn ban;

9 ~~((b))~~ (ii) Whether the agency could have taken actions to avoid  
10 calling a second stage burn ban without calling a first stage burn  
11 ban; and

12 ~~((c))~~ (iii) Any changes the department or authority is making  
13 to its procedures of calling first stage and second stage burn bans  
14 to avoid calling a second stage burn ban without first calling a  
15 first stage burn ban.

16 (b) After consulting with affected parties, the department shall  
17 prescribe the format of such a report and may also require additional  
18 information be included in the report. All reports shall be sent to  
19 the department and the department shall keep the reports on file for  
20 not less than five years and available for public inspection and  
21 copying in accordance with RCW 42.56.090.

22 (4) For the purposes of chapter 219, Laws of 2012, an area at  
23 risk for nonattainment means an area where the three-year average of  
24 the annual ninety-eighth percentile of twenty-four hour fine  
25 particulate values is greater than twenty-nine micrograms per cubic  
26 meter, based on the years 2008 through 2010 monitoring data.

27 (5)(a) Nothing in this section restricts a person from:

28 (i) Installing or repairing a certified solid fuel burning device  
29 approved by the department under the program established under RCW  
30 70.94.457 in a residence or commercial establishment or from  
31 replacing a solid fuel burning device with a certified solid fuel  
32 burning device;

33 (ii) Burning wood in a solid fuel burning device, regardless of  
34 whether a burn ban has been called, if there is an emergency power  
35 outage; or

36 (iii) For the duration of an emergency power outage, the use of a  
37 solid fuel burning device or the temporary installation, repair, or  
38 replacement of a solid fuel burning device to prevent the loss of  
39 life, health, or business.

1       (b) For the purposes of this subsection, an emergency power  
2 outage means a power outage solely for the duration and specific  
3 location of the power outage caused by:  
4       (i) Any natural or human-caused event beyond the control of a  
5 person that leaves the person's residence or commercial establishment  
6 temporarily without an adequate source of heat other than the solid  
7 fuel burning device; or  
8       (ii) A natural or human-caused event for which the governor  
9 declares an emergency in an area under chapter 43.06 RCW, including a  
10 public disorder, disaster, or energy emergency under RCW  
11 43.06.010(12)."

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12       On page 1, line 4 of the title, after "heat;" strike the  
13 remainder of the title and insert "and amending RCW 70.94.473."

EFFECT: Clarifies an emergency power outage means a power outage solely for the duration and specific location of the power outage.

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