

SENATE BILL REPORT

ESHB 2928

As of February 27, 2016

Title: An act relating to ensuring that restrictions on outdoor burning for air quality reasons do not impede measures necessary to ensure forest resiliency to catastrophic fires.

Brief Description: Ensuring that restrictions on outdoor burning for air quality reasons do not impede measures necessary to ensure forest resiliency to catastrophic fires.

Sponsors: House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Kretz, Blake, Schmick, Dunshee, Short, Haler, Stanford and Chandler).

Brief History: Passed House: 2/16/16, 97-0.

Committee Activity: Natural Resources & Parks: 2/24/16 [DPA-WM].

Ways & Means: 2/29/16.

SENATE COMMITTEE ON NATURAL RESOURCES & PARKS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Pearson, Chair; Dansel, Vice Chair; Jayapal, Ranking Member; Chase, Fraser, Hewitt and Warnick.

Staff: Bonnie Kim (786-7316)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Sherry McNamara (786-7402)

Background: Air Quality Standards. The Department of Ecology (Ecology) and seven local air pollution control authorities (local air authorities) have each received approval from the United States Environmental Protection Agency (EPA) to administer aspects of the federal Clean Air Act (CAA) in Washington. Local clean air agencies have the primary responsibility for administering the state and federal CAAs in counties which have elected to activate a local air authority or to form a multicounty air authority. In other areas of the state, Ecology is responsible for administering state and federal CAA programs. Under the federal CAA, each state maintains a State Implementation Plan (SIP) that describes how the state implements clean air programs to achieve the federal ambient air quality standards for air pollutants.

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.

Under the federal CAA, the EPA sets National Ambient Air Quality Standards (NAAQS) for several pollutants including carbon monoxide and particulate matter. There are two types of NAAQS:

- Primary standards set limits to protect public health of sensitive populations such as children, the elderly, and those with conditions such as asthma.
- Secondary standards set limits to protect public welfare and address decreased visibility and damage to animals, crops, vegetation, and buildings.

Under the state CAA, Ecology sets Washington Ambient Air Quality Standards (WAAQS). Local air authorities may also adopt standards that apply within their jurisdiction which must be at least as protective as federal standards. Local standards and WAAQS are primary standards only.

Burning Permits. The Department of Natural Resources (DNR), Ecology, and certain political subdivisions such as counties, conservation districts, fire protection authorities, and local air authorities, may issue permits for a variety of outdoor burning activities in their respective jurisdictions allowed under the state CAA. Outdoor burning includes agricultural burning, the burning of organic yard or gardening waste, and silvicultural burning. Outdoor burn permits may not be issued during a period of impaired air quality declared by Ecology or a local air authority.

DNR has direct charge and responsibility over all matters relating to forest fire services in the state. DNR is also responsible for issuing and regulating permits for certain burning activities on lands under the DNR's fire protection authority for the following purposes: to abate and prevent fire hazards; forest firefighting instruction; and burning operations to improve fire-dependent ecosystems and otherwise improve the forestlands of the state.

Summary of Bill (Recommended Amendments): DNR must create a forest resiliency burning pilot project on fire-prone land in coordination with the Northeast Washington forest collaborative, the North Central Washington forest health collaborative, and the Tapash sustainable forest collaborative.

Forest resiliency burning is defined as permitted burning activity to maintain ecosystems, mitigate wildfire potential, decrease forest insect or disease susceptibility, or otherwise enhance resiliency to fire.

DNR must approve single day or multiple day burns if the burning is unlikely to significantly contribute to an exceedance of air quality standards. Forest resiliency burning must be initiated no later than 24 hours after approved by the DNR. Once underway, multiple-day burns may only be denied or postponed if necessary for the safety of adjacent property or if DNR or Ecology determines the burn has significantly contributed to an air quality violation.

DNR is not required to update the smoke management plan or the SIP in order to conduct the pilot project. In addition, the pilot project is exempt from the state environmental policy act review.

DNR must report to the Legislature by December 1, 2018, detailing the effectiveness of forest resiliency burning for wildfire prevention, a record of air quality exceedances resulting

from forest fire resiliency burning including severity and duration, recommendations regarding the continuation and expansion of forest resiliency burning, a comparative analysis between the predicted smoke conditions and what is actually observed on location by qualified meteorological personnel or trained prescribed burning professionals during the forest resiliency burn, and creation of a new outdoor burning activity permitted by the DNR.

EFFECT OF CHANGES MADE BY NATURAL RESOURCES & PARKS COMMITTEE (Recommended Amendments): Allows DNR to consider pilot projects involving thinning and grazing treatments to reduce fuel loads prior to burning and removes a requirement that DNR coordinate with at least one organization comprised of public agencies and other stakeholders interested in prescribed fires.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill (Natural Resources & Parks):
PRO: Past forest land management practices have resulted in overstocked forests and unhealthy forest conditions. Wildfires have burned about 1 million acres in Okanogan. Where there have been preventative thinning and resiliency treatments, fires do not crown and stay low to the ground with low-intensity. This is an attempt to streamline the permitting process regarding burns. I believe the controlled burns will help prevent devastating losses. This bill helps ensure the safety of firefighters by keeping fires small and easier to manage. Prescribed burning is a valuable forest management tool to reduce fuel loads and decrease risks associated large fires. Our state is in need of updating the smoke management plan but it will take several years to do it correctly. In the meantime, this bill will allow treatments to be conducted immediately. High fuel loads result in catastrophic fires. This bill will help protect local economies.

Persons Testifying on Original Bill (Natural Resources & Parks): PRO: Representative Kretz, prime sponsor; Tim Boyd, Vaagen Brothers Lumber & Boise Cascade; Abbie Zulock, WA Public Employees Assn; Scott Richards, The Nature Conservancy; Scott Vejraska, Rancher; Tom Davis, WA Farm Bureau.

Persons Signed In To Testify But Not Testifying on Original Bill: No one.