
SUBSTITUTE HOUSE BILL 2928

State of Washington 64th Legislature 2016 Regular Session

By House Agriculture & Natural Resources (originally sponsored by Representatives Kretz, Blake, Schmick, Dunshee, Short, Haler, Stanford, and Chandler)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to ensuring that restrictions on outdoor burning
2 for air quality reasons do not impede measures necessary to ensure
3 forest resiliency to catastrophic fires; and amending RCW 76.04.205,
4 70.94.6512, 70.94.6514, 70.94.6538, and 70.94.6540.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 76.04.205 and 1986 c 100 s 17 are each amended to
7 read as follows:

8 (1) Except in certain areas designated by the department or as
9 permitted under rules adopted by the department, a person shall have
10 a valid written burning permit obtained from the department to burn:

11 (a) Any flammable material on any lands under the protection of
12 the department; or

13 (b) Refuse or waste forest material on forest lands protected by
14 the department.

15 (2) To be valid a permit must be signed by both the department
16 and the permittee. Conditions may be imposed in the permit for the
17 protection of life, property, or air quality and (~~{the department}~~)
18 the department may suspend or revoke the permits when conditions
19 warrant. A permit shall be effective only under the conditions and
20 for the period stated therein. Signing of the permit shall indicate

1 the permittee's agreement to and acceptance of the conditions of the
2 permit.

3 (3) The department may inspect or cause to be inspected the area
4 involved and may issue a burning permit if:

5 (a) All requirements relating to firefighting equipment, the work
6 to be done, and precautions to be taken before commencing the burning
7 have been met;

8 (b) No unreasonable danger will result; and

9 (c) Burning will be done either:

10 (i) In compliance with air quality standards established by
11 chapter 70.94 RCW; or

12 (ii) For forest resiliency burning, the permitted burning is
13 unlikely to significantly contribute to a violation of air quality
14 standards established by chapter 70.94 RCW.

15 (4)(a) Except as provided in (b) of this subsection, the
16 department, authorized employees thereof, or any warden or ranger may
17 refuse, revoke, or postpone the use of permits to burn when necessary
18 for the safety of adjacent property or when necessary in their
19 judgment to prevent air pollution as provided in chapter 70.94 RCW.

20 (b) The department, authorized employees, or any warden or ranger
21 may refuse, revoke, or postpone the use of permits for forest
22 resiliency burning only if:

23 (i) Necessary for the safety of adjacent property; or

24 (ii) Burning poses an unreasonable risk of air pollution as
25 provided in chapter 70.94 RCW, taking into account the likelihood and
26 magnitude of subsequent air pollution from an unplanned and
27 uncontrolled fire if the burn permit is refused, revoked, or
28 postponed.

29 (5)(a) Under this section, the department must issue burn permits
30 that span multiple days for forest resiliency burning. A burn permit
31 spanning multiple days may only be revoked or postponed midway during
32 the duration of the permit when necessary for the safety of adjacent
33 property or upon a determination by the department or the department
34 of ecology that the burn has significantly contributed to a violation
35 of air quality standards under chapter 70.94 RCW.

36 (b) Permits issued under this section must be issued at least
37 twenty-four hours prior to the proposed forest resiliency burn.

38 (6) For the purposes of this section, "forest resiliency burning"
39 means silvicultural burning carried out under the supervision of
40 qualified silvicultural, ecological, or fire management professionals

1 and used to improve or maintain fire dependent ecosystems, to
2 mitigate severe wildfire potential, to decrease forest susceptibility
3 to forest insect or disease as defined in RCW 76.06.020, or to
4 otherwise enhance forest resiliency to fire.

5 **Sec. 2.** RCW 70.94.6512 and 2009 c 118 s 102 are each amended to
6 read as follows:

7 Except as provided in RCW 70.94.6546 and 70.94.6514(4), no person
8 shall cause or allow any outdoor fire:

9 (1) Containing garbage, dead animals, asphalt, petroleum
10 products, paints, rubber products, plastics, or any substance other
11 than natural vegetation that normally emits dense smoke or obnoxious
12 odors. Agricultural heating devices that otherwise meet the
13 requirements of this chapter shall not be considered outdoor fires
14 under this section;

15 (2) During a forecast, alert, warning or emergency condition as
16 defined in RCW 70.94.715 or impaired air quality condition as defined
17 in RCW 70.94.473.

18 **Sec. 3.** RCW 70.94.6514 and 2009 c 118 s 103 are each amended to
19 read as follows:

20 (1) Consistent with the policy of the state to reduce outdoor
21 burning to the greatest extent practical, outdoor burning shall not
22 be allowed in:

23 (a) Any area of the state where federal or state ambient air
24 quality standards are exceeded for pollutants emitted by outdoor
25 burning; or

26 (b) Any urban growth area as defined by RCW 36.70A.030, or any
27 city of the state having a population greater than ten thousand
28 people if such cities are threatened to exceed state or federal air
29 quality standards, and alternative disposal practices consistent with
30 good solid waste management are reasonably available or practices
31 eliminating production of organic refuse are reasonably available.

32 (2) Notwithstanding any other provision of this section, outdoor
33 burning may be allowed for the exclusive purpose of managing storm or
34 flood-related debris. The decision to allow burning shall be made by
35 the entity with permitting jurisdiction as determined under RCW
36 70.94.6534 or 70.94.6518. If outdoor burning is allowed in areas
37 subject to subsection (1)(a) or (b) of this section, a permit shall
38 be required, and a fee may be collected to cover the expenses of

1 administering and enforcing the permit. All conditions and
2 restrictions pursuant to RCW 70.94.6526(1) and 70.94.6512 apply to
3 outdoor burning allowed under this section.

4 (3)(a) Outdoor burning that is normal, necessary, and customary
5 to ongoing agricultural activities, that is consistent with
6 agricultural burning authorized under RCW 70.94.6528 and 70.94.6532,
7 is allowed within the urban growth area in accordance with RCW
8 70.94.6528(8)(a).

9 (b) Outdoor burning of cultivated orchard trees shall be allowed
10 as an ongoing agricultural activity under this section in accordance
11 with RCW 70.94.6528(8)(b).

12 (4) This section (~~(shall not apply to silvicultural burning used~~
13 ~~to improve or maintain fire dependent ecosystems for rare plants or~~
14 ~~animals within state, federal, and private natural area preserves,~~
15 ~~natural resource conservation areas, parks, and other wildlife~~
16 ~~areas)) and RCW 70.94.6512 do not apply to forest resiliency burning~~

17 as defined in RCW 76.04.205(6).

18 **Sec. 4.** RCW 70.94.6538 and 2009 c 118 s 502 are each amended to
19 read as follows:

20 (1) The department of natural resources in granting burning
21 permits for fires for the purposes set forth in RCW 70.94.6534 shall
22 condition the issuance and use of such permits to comply with air
23 quality standards established by the department of ecology after full
24 consultation with the department of natural resources. Such burning
25 shall not cause the state air quality standards to be exceeded in the
26 ambient air up to two thousand feet above ground level over critical
27 areas designated by the department of ecology, otherwise subject to
28 air pollution from other sources. Air quality standards shall be
29 established and published by the department of ecology which shall
30 also establish a procedure for advising the department of natural
31 resources when and where air contaminant levels exceed or threaten to
32 exceed the ambient air standards over such critical areas. The air
33 quality shall be quantitatively measured by the department of ecology
34 or the appropriate local air pollution control authority at
35 established monitoring stations over such designated areas. Further,
36 such permitted burning shall not cause damage to public health or the
37 environment. All permits issued under this section shall be subject
38 to all applicable fees, permitting, penalty, and enforcement
39 provisions of this chapter. The department of natural resources shall

1 set forth smoke dispersal objectives designed consistent with this
2 section to minimize any air pollution from such burning and the
3 procedures necessary to meet those objectives.

4 (2) The department of natural resources shall encourage more
5 intense utilization in logging and alternative silviculture practices
6 to reduce the need for burning. The department of natural resources
7 shall, whenever practical, encourage landowners to develop and use
8 alternative acceptable disposal methods subject to the following
9 priorities: ~~((1))~~ (a) Slash production minimization~~((2))~~; (b)
10 slash utilization~~((3))~~; (c) nonburning disposal~~((4))~~; (d)
11 silvicultural burning. Such alternative methods shall be evaluated as
12 to the relative impact on air, water, and land pollution, public
13 health, and their financial feasibility.

14 (3) Except for permits for forest resiliency burning as provided
15 in RCW 76.04.205, the department of natural resources shall not issue
16 burning permits and shall revoke previously issued permits at any
17 time in any area where the department of ecology or local board has
18 declared a stage of impaired air quality as defined in RCW 70.94.473.

19 **Sec. 5.** RCW 70.94.6540 and 2009 c 118 s 503 are each amended to
20 read as follows:

21 (1) In the regulation of outdoor burning not included in RCW
22 70.94.6534 requiring permits from the department of natural
23 resources, said department and the state, local, or regional air
24 pollution control authorities will cooperate in regulating such
25 burning so as to minimize insofar as possible duplicate inspections
26 and separate permits while still accomplishing the objectives and
27 responsibilities of the respective agencies. The department of
28 natural resources shall include any local authority's burning
29 regulations with permits issued where applicable pursuant to RCW
30 70.94.6512, 70.94.6514, 70.94.6518, 70.94.6520, 70.94.6522,
31 70.94.6524, and 70.94.6526. The department shall develop agreements
32 with all local authorities to coordinate regulations.

33 (2) Except for permits for forest resiliency burning as provided
34 in RCW 76.04.205, permits shall be withheld by the department of
35 natural resources when so requested by the department of ecology if a
36 forecast, alert, warning, or emergency condition exists as defined in
37 the episode criteria of the department of ecology.

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