

HOUSE BILL REPORT

SSB 6055

As Reported by House Committee On:
Environment

Title: An act relating to creating a pilot program for outdoor burning for cities or towns located partially inside a quarantine area for apple maggot.

Brief Description: Creating a pilot program for outdoor burning for cities or towns located partially inside a quarantine area for apple maggot.

Sponsors: Senate Committee on Energy, Environment & Technology (originally sponsored by Senators Hawkins, Carlyle, Palumbo and Mullet).

Brief History:

Committee Activity:

Environment: 2/19/18, 2/20/18 [DPA].

**Brief Summary of Substitute Bill
(As Amended by Committee)**

- Authorizes, until June 30, 2018, cities and towns that are located partially inside an apple maggot quarantine area to apply to the Department of Ecology (Ecology) for an outdoor burning permit for the burning of brush and yard waste generated within the city or town, provided that certain requirements are met.
- Directs Ecology and the Department of Agriculture to submit a report to the Legislature by November 1, 2018, that addresses the available options for the processing and disposal of municipal yard waste generated in areas subject to the apple maggot quarantine.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass as amended. Signed by 9 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Taylor, Ranking Minority Member; Maycumber, Assistant Ranking Minority Member; Buys, Dye, Fey, Kagi and McBride.

Staff: Robert Hatfield (786-7117).

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.

Background:

Clean Air Act Requirements.

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 in Washington. In addition to the federal Clean Air Act, Washington has also enacted a state Clean Air Act.

Under the federal Clean Air Act, each state maintains a State Implementation Plan (SIP) that describes how the state will implement clean air programs to achieve the federal National Ambient Air Quality Standards (NAAQS) for air pollutants. If the state does not achieve the NAAQS in a portion of the state for a particular air pollutant, that area is considered to be in nonattainment, and the state must revise its SIP with the goal of regaining attainment with the NAAQS. The Ecology must submit the SIP revisions to the EPA for approval and may work with affected local air authorities to revise the SIP.

Under the state Clean Air Act, Ecology sets Washington Ambient Air Quality Standards. Local air authorities may also adopt standards that apply within their jurisdiction, which must be at least as protective as the federal standards. The state Clean Air Act directs Ecology or the local air authorities to require permits for certain operating sources of air pollutants and allows the state and these local air authorities to impose registration requirements on sources of other air pollutants.

Clean Air Act – Outdoor Burning.

The state Clean Air Act prohibits outdoor burning in certain circumstances, including within Urban Growth Areas and within any city with a population greater than 10,000, if such a city is at risk of exceeding state or federal air quality standards and alternative disposal methods are reasonably available.

A person who proposes to set fires in the course of agricultural activities must obtain a permit from a local air authority or Ecology, as appropriate. Such a permit must be conditioned to minimize air pollution insofar as practical. Outdoor burning that is normal, necessary, and customary to ongoing agricultural activities is allowed within an Urban Growth Area if the burning is not conducted during air quality episodes, or where a determination of impaired air quality has been made, and the agricultural activities preceded the designation as an Urban Growth Area.

Apple Maggot Quarantine.

Under the statutory authority of the Washington State Department of Agriculture, the apple maggot is subject to quarantine regulations. The transport of homegrown or foraged fresh fruit, including apples, crabapples, cherries, pears, plums, and apricots, out of a quarantined area is prohibited. Most counties in western Washington are quarantined for apple maggot, as is Spokane County. Parts of Chelan, Kittitas, Yakima, and Lincoln counties are also quarantined.

Summary of Amended Bill:

Until June 30, 2019, a city or town that is located partially inside an apple maggot quarantine area established by the Washington State Department of Agriculture (WSDA) may apply to Ecology for an outdoor burning permit for the burning of brush and yard waste generated within the city or town.

In order to apply for an outdoor burning permit as described above, the city or town must satisfy the following requirements:

- burning must be conducted by city or town employees, or by contractors under the supervision of city or town employees, or by local fire officials;
- burning must be supervised by local fire officials and in consultation with the WSDA and either Ecology or a local air authority, as applicable;
- the city or town must publish notice of burning in the applicable newspaper of record a minimum of one calendar day prior to engaging in burning; and
- burning may be conducted no more than twice per calendar year.

Ecology and the WSDA must submit to the appropriate policy committees of the Legislature by November 1, 2018 a report that addresses the available options for the processing and disposal of municipal yard waste generated in areas subject to the apple maggot quarantine, including:

- techniques that neutralize any apple maggot larvae that may be contained within such yard waste;
- identification of facilities that are capable of receiving such yard waste;
- alternatives to outdoor burning, such as composting, chipping, biochar production, and biomass electrical generation; and
- a comparison of the costs of such alternatives.

Amended Bill Compared to Substitute Bill:

The section creating the pilot project is removed.

A section is added that allows, until June 30, 2019, cities and towns that are located partially inside an apple maggot quarantine area to apply to Ecology for an outdoor burning permit for the burning of brush and yard waste generated within the city or town, provided that certain requirements are met. The new section also requires Ecology and the WSDA to submit a report to the Legislature by November 1, 2018, that addresses the available options for the processing and disposal of municipal yard waste generated in areas subject to the apple maggot quarantine.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) This bill raises concerns related to public health and the environment. It can be a challenge for areas in quarantine areas to manage yard waste. The solution proposed by the bill could create compliance problems for the City of Leavenworth, which is already on the verge of being in nonattainment status for air quality. Smoke from outdoor burning contains fine particulate matter, contributes to heart disease, chronic obstructive pulmonary disease, asthma, increased risk of cancer, and vascular illnesses. If an area goes into nonattainment status, all businesses in that area would be subject to more stringent air quality restrictions. The risk to public health and the costs of additional compliance from being in nonattainment status mean that outdoor burning should be the last option for dealing with yard waste. Even one hour of heavy smoke can be problematic for someone with a compromised immune system. When an area goes into nonattainment status, a new air quality standard has to be created for that area that guarantees the area will get back into attainment. That new standard then creates enforceable restrictions on everyone, including requirements to utilize the most effective air quality equipment, regardless of cost. That could mean, for example, restrictions on some types of wood stoves and banning uncertified wood stoves. Home heating is the primary source of particulate matter in Leavenworth.

(Other) It is important that the bill not impact people who rely on wood stoves for their heat. It would be good for the bill to have parameters on when burning cannot occur so that areas do not go into nonattainment status. Going into nonattainment status would mean bans on certain types of wood stoves, and could lead to forced change-outs of heating equipment.

Persons Testifying: (Opposed) Denise Clifford, Department of Ecology.

(Other) Carolyn Logue, Northwest Hearth, Patio, and Barbecue Association.

Persons Signed In To Testify But Not Testifying: None.