
HOUSE BILL 1928

State of Washington 65th Legislature 2017 Regular Session

By Representatives Koster, Buys, and Shea

Read first time 02/02/17. Referred to Committee on Environment.

1 AN ACT Relating to the use of solid fuel burning devices;
2 amending RCW 70.94.430 and 70.94.431; and prescribing penalties.

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

4 **Sec. 1.** RCW 70.94.430 and 2011 c 96 s 49 are each amended to
5 read as follows:

6 (1) Except as provided in subsection (2) of this section, any
7 person who:

8 (a) Knowingly violates any of the provisions of chapter 70.94 or
9 70.120 RCW, or any ordinance, resolution, or regulation in force
10 pursuant thereto is guilty of a gross misdemeanor and upon conviction
11 thereof shall be punished by a fine of not more than ten thousand
12 dollars, or by imprisonment in the county jail for up to three
13 hundred sixty-four days, or by both for each separate violation.

14 ~~((2) Any person who))~~ (b) Negligently releases into the ambient
15 air any substance listed by the department of ecology as a hazardous
16 air pollutant, other than in compliance with the terms of an
17 applicable permit or emission limit, and who at the time negligently
18 places another person in imminent danger of death or substantial
19 bodily harm is guilty of a gross misdemeanor and shall, upon
20 conviction, be punished by a fine of not more than ten thousand

1 dollars, or by imprisonment for up to three hundred sixty-four days,
2 or both.

3 ~~((3) Any person who))~~ (c) Knowingly releases into the ambient
4 air any substance listed by the department of ecology as a hazardous
5 air pollutant, other than in compliance with the terms of an
6 applicable permit or emission limit, and who knows at the time that
7 he or she thereby places another person in imminent danger of death
8 or substantial bodily harm, is guilty of a class C felony and shall,
9 upon conviction, be punished by a fine of not less than fifty
10 thousand dollars, or by imprisonment for not more than five years, or
11 both.

12 ~~((4) Any person who))~~ (d) Knowingly fails to disclose a
13 potential conflict of interest under RCW 70.94.100 is guilty of a
14 gross misdemeanor, and upon conviction thereof shall be punished by a
15 fine of not more than five thousand dollars.

16 (2) Any person who is in violation of RCW 70.94.473:

17 (a) May not be subject to an enforcement action within the first
18 twelve hours after the issuance of a public notice that a burn ban is
19 in effect;

20 (b) For the first violation within a calendar month, must be
21 provided educational materials regarding public health and air
22 quality, and information about obtaining or purchasing a certified
23 solid fuel burning device as defined in RCW 70.94.473(1)(b);

24 (c) For the second violation in the same calendar month, is
25 subject to a civil penalty of two hundred fifty dollars. For each
26 subsequent violation in the same calendar month, the amount of the
27 civil penalty must be increased by two hundred fifty dollars for each
28 offense.

29 **Sec. 2.** RCW 70.94.431 and 2013 c 51 s 6 are each amended to read
30 as follows:

31 (1) Except as provided in RCW 43.05.060 through 43.05.080
32 ~~((and)),~~ 43.05.150, and 70.94.430(2), and in addition to or as an
33 alternate to any other penalty provided by law, any person who
34 violates any of the provisions of this chapter, chapter 70.120 RCW,
35 chapter 70.310 RCW, or any of the rules in force under such chapters
36 may incur a civil penalty in an amount not to exceed ten thousand
37 dollars per day for each violation. Each such violation shall be a
38 separate and distinct offense, and in case of a continuing violation,
39 each day's continuance shall be a separate and distinct violation.

1 Any person who fails to take action as specified by an order
2 issued pursuant to this chapter shall be liable for a civil penalty
3 of not more than ten thousand dollars for each day of continued
4 noncompliance.

5 (2) Penalties incurred but not paid shall accrue interest,
6 beginning on the ninety-first day following the date that the penalty
7 becomes due and payable, at the highest rate allowed by RCW 19.52.020
8 on the date that the penalty becomes due and payable. If violations
9 or penalties are appealed, interest shall not begin to accrue until
10 the thirty-first day following final resolution of the appeal.

11 The maximum penalty amounts established in this section may be
12 increased annually to account for inflation as determined by the
13 state office of the economic and revenue forecast council.

14 (3) Each act of commission or omission which procures, aids or
15 abets in the violation shall be considered a violation under the
16 provisions of this section and subject to the same penalty. The
17 penalties provided in this section shall be imposed pursuant to RCW
18 43.21B.300.

19 (4) All penalties recovered under this section by the department
20 shall be paid into the state treasury and credited to the air
21 pollution control account established in RCW 70.94.015 or, if
22 recovered by the authority, shall be paid into the treasury of the
23 authority and credited to its funds. If a prior penalty for the same
24 violation has been paid to a local authority, the penalty imposed by
25 the department under subsection (1) of this section shall be reduced
26 by the amount of the payment.

27 (5) To secure the penalty incurred under this section, the state
28 or the authority shall have a lien on any vessel used or operated in
29 violation of this chapter which shall be enforced as provided in RCW
30 60.36.050.

31 (6) Public or private entities that are recipients or potential
32 recipients of department grants, whether for air quality related
33 activities or not, may have such grants rescinded or withheld by the
34 department for failure to comply with provisions of this chapter.

35 (7) In addition to other penalties provided by this chapter,
36 persons knowingly under-reporting emissions or other information used
37 to set fees, or persons required to pay emission or permit fees who
38 are more than ninety days late with such payments may be subject to a
39 penalty equal to three times the amount of the original fee owed.

1 (8) By January 1, 1992, the department shall develop rules for
2 excusing excess emissions from enforcement action if such excess
3 emissions are unavoidable. The rules shall specify the criteria and
4 procedures for the department and local air authorities to determine
5 whether a period of excess emissions is excusable in accordance with
6 the state implementation plan.

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