
HOUSE BILL 2271

State of Washington

54th Legislature

1996 Regular Session

By Representatives Brown, Silver and Dellwo

Read first time 01/09/96. Referred to Committee on Agriculture & Ecology.

1 AN ACT Relating to expanding governmental authority to regulate
2 grass seed burning; amending RCW 70.94.656; and reenacting and amending
3 RCW 70.94.650.

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

5 **Sec. 1.** RCW 70.94.650 and 1995 c 362 s 1 and 1995 c 58 s 1 are
6 each reenacted and amended to read as follows:

7 (1) Any person who proposes to set fires in the course of:

8 (a) Weed abatement;

9 (b) Instruction in methods of fire fighting, except training to
10 fight structural fires as provided in RCW 52.12.150 or training to
11 fight aircraft crash rescue fires as provided in subsection (5) of this
12 section, and except forest fire training; or

13 (c) Agricultural activities,

14 shall obtain a permit from an air pollution control authority, the
15 department of ecology, or a local entity delegated permitting authority
16 under RCW 70.94.654. General permit criteria of state-wide
17 applicability shall be established by the department, by rule, after
18 consultation with the various air pollution control authorities.
19 Permits shall be issued under this section based on seasonal operations

1 or by individual operations, or both. All permits shall be conditioned
2 to insure that the public interest in air, water, and land pollution
3 and safety to life and property is fully considered. In addition to
4 any other requirements established by the department to protect air
5 quality pursuant to other laws, applicants for permits must show that
6 the setting of fires as requested is the most reasonable procedure to
7 follow in safeguarding life or property under all circumstances or is
8 otherwise reasonably necessary to successfully carry out the enterprise
9 in which the applicant is engaged, or both. All burning permits will
10 be designed to minimize air pollution insofar as practical. Nothing in
11 this section shall relieve the applicant from obtaining permits,
12 licenses, or other approvals required by any other law. An application
13 for a permit to set fires in the course of agricultural burning for
14 controlling diseases, insects, weed abatement or development of
15 physiological conditions conducive to increased crop yield, shall be
16 acted upon within seven days from the date such application is filed.
17 The department of ecology and local air authorities shall provide
18 convenient methods for issuance and oversight of agricultural burning
19 permits. The department and local air authorities shall, through
20 agreement, work with counties and cities to provide convenient methods
21 for granting permission for agricultural burning, including telephone,
22 facsimile transmission, issuance from local city or county offices, or
23 other methods. (~~A local air authority administering the permit
24 program under this subsection (1)(c) shall not limit the number of days
25 of allowable agricultural burning, but may consider the time of year,
26 meteorological conditions, and other criteria specified in rules
27 adopted by the department to implement this subsection (1)(c).~~)

28 (2) Permit fees shall be assessed for burning under this section
29 and shall be collected by the department of ecology, the appropriate
30 local air authority, or a local entity delegated permitting authority
31 pursuant to RCW 70.94.654 at the time the permit is issued. All fees
32 collected shall be deposited in the air pollution control account
33 created in RCW 70.94.015, except for that portion of the fee necessary
34 to cover local costs of administering a permit issued under this
35 section. Fees shall be set by rule by the permitting agency at the
36 level determined by the task force created by subsection (4) of this
37 section, but shall not exceed two dollars and fifty cents per acre to
38 be burned. After fees are established by rule, any increases in such

1 fees shall be limited to annual inflation adjustments as determined by
2 the state office of the economic and revenue forecast council.

3 (3) Conservation districts and the Washington State University
4 agricultural extension program in conjunction with the department shall
5 develop public education material for the agricultural community
6 identifying the health and environmental effects of agricultural
7 outdoor burning and providing technical assistance in alternatives to
8 agricultural outdoor burning.

9 (4) An agricultural burning practices and research task force shall
10 be established under the direction of the department. The task force
11 shall be composed of a representative from the department who shall
12 serve as chair; one representative of eastern Washington local air
13 authorities; three representatives of the agricultural community from
14 different agricultural pursuits; one representative of the department
15 of agriculture; two representatives from universities or colleges
16 knowledgeable in agricultural issues; one representative of the public
17 health or medical community; and one representative of the conservation
18 districts. The task force shall identify best management practices for
19 reducing air contaminant emissions from agricultural activities and
20 provide such information to the department and local air authorities.
21 The task force shall determine the level of fees to be assessed by the
22 permitting agency pursuant to subsection (2) of this section, based
23 upon the level necessary to cover the costs of administering and
24 enforcing the permit programs, to provide funds for research into
25 alternative methods to reduce emissions from such burning, and to the
26 extent possible be consistent with fees charged for such burning
27 permits in neighboring states. The fee level shall provide, to the
28 extent possible, for lesser fees for permittees who use best management
29 practices to minimize air contaminant emissions. The task force shall
30 identify research needs related to minimizing emissions from
31 agricultural burning and alternatives to such burning. Further, the
32 task force shall make recommendations to the department on priorities
33 for spending funds provided through this chapter for research into
34 alternative methods to reduce emissions from agricultural burning.

35 (5) A permit is not required under this section, or under RCW
36 70.94.743 through 70.94.780, from an air pollution control authority,
37 the department, or any local entity with delegated permit authority,
38 for aircraft crash rescue fire training activities meeting the
39 following conditions:

1 (a) Fire fighters participating in the training fires must be
2 limited to those who provide fire fighting support to an airport that
3 is either certified by the federal aviation administration or operated
4 in support of military or governmental activities;

5 (b) The fire training may not be conducted during an air pollution
6 episode or any stage of impaired air quality declared under RCW
7 70.94.715 for the area where training is to be conducted;

8 (c) The number of training fires allowed per year without a permit
9 shall be the minimum number necessary to meet federal aviation
10 administration or other federal safety requirements; and

11 (d) Prior to the commencement of the aircraft fire training, the
12 organization conducting training shall notify both the: (i) Local fire
13 district or fire department; and (ii) air pollution control authority,
14 department of ecology, or local entity delegated permitting authority
15 under RCW 70.94.654, having jurisdiction within the area where training
16 is to be conducted.

17 Aircraft crash rescue fire training activities conducted in
18 compliance with this subsection are not subject to the prohibition, in
19 RCW 70.94.775(1), of outdoor fires containing petroleum products.

20 (6) Subsection (5) of this section shall expire on the earlier of
21 the following dates: (a) July 1, 1998; or (b) the date upon which the
22 North Bend fire training center is fully operational for aircraft crash
23 rescue fire training activities.

24 **Sec. 2.** RCW 70.94.656 and 1995 c 261 s 1 are each amended to read
25 as follows:

26 It is hereby declared to be the policy of this state that strong
27 efforts (~~((should))~~) shall be made to minimize adverse health effects
28 (~~((on air quality))~~) resulting from the open burning of field and turf
29 grasses grown for seed. To such end this section is intended to
30 promote the development of economical and practical alternate
31 agricultural practices to such burning, and to (~~((provide for))~~) protect
32 human health through interim regulation (~~((of such burning))~~) until
33 practical alternates are found.

34 (1) The department shall approve of a study or studies for the
35 exploration and identification of economical and practical alternate
36 agricultural practices to the open burning of field and turf grasses
37 grown for seed. (~~((Any study conducted pursuant to this section shall~~
38 ~~be conducted by Washington State University. The university may not~~

1 charge more than eight percent for administrative overhead.)) Prior to
2 the issuance of any permit for such burning under RCW 70.94.650, there
3 shall be collected a fee not to exceed one dollar per acre of crop to
4 be burned. Any such fees received by any authority shall be
5 transferred to the department of ecology. The department of ecology
6 shall deposit all such acreage fees in a special grass seed burning
7 research account, hereby created, in the state treasury.

8 (2) The department shall allocate moneys annually from this account
9 for the support of any approved study or studies as provided for in
10 subsection (1) of this section. Whenever the department of ecology
11 (~~shall conclude that sufficient reasonably available alternates to~~
12 ~~open burning have been developed~~) prohibits the open burning of field
13 or turf grasses grown for seed, and at such time as all costs of any
14 studies have been paid, the grass seed burning research account shall
15 be dissolved, and any money remaining therein shall revert to the
16 general fund. The fee collected under subsection (1) of this section
17 shall constitute the research portion of fees required under RCW
18 70.94.650 for open burning of grass grown for seed.

19 (3) Whenever on the basis of information available to it, the
20 department after public hearings have been conducted wherein testimony
21 will be received and considered from interested parties wishing to
22 testify shall conclude that any procedure, program, technique, or
23 device constitutes ((a)) an economical and practical alternate
24 agricultural practice to the open burning of field or turf grasses
25 grown for seed, the department shall, by order, certify approval of
26 such alternate. Thereafter, in any case which any such approved
27 alternate is reasonably available, the open burning of field and turf
28 grasses grown for seed shall be disallowed and no permit shall issue
29 therefor.

30 (4) Until approved alternates become available, the department or
31 the authority ((may)) shall limit the number of acres to be burned on
32 a pro rata basis ((among those affected for which permits to burn will
33 be issued in order to effectively control)) whenever the department or
34 the authority finds that a limitation is necessary to protect human
35 health from emissions from this source.

36 (5) Permits issued for burning of field and turf grasses may be
37 conditioned to ((~~minimize emissions insofar as practical~~)) protect
38 human health, including denial of permission to burn during periods of
39 adverse meteorological conditions.

1 (6) (~~By November 1, 1996, and every two years thereafter until~~
2 ~~grass seed burning is prohibited, Washington State University shall~~
3 ~~submit to the appropriate standing committees of the legislature a~~
4 ~~brief report assessing the potential of the university's research to~~
5 ~~result in economical and practical alternatives to grass seed burning))~~
6 As used in this section, "economical and practical alternative
7 agricultural practice" means an agricultural practice that achieves the
8 best net result after comparing the benefits of growing grass seed to
9 the costs associated with burning grass, including but not limited to
10 health and recreational costs.

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