
ENGROSSED SENATE BILL 5074

State of Washington

54th Legislature

1995 Regular Session

By Senator Fraser

Read first time 01/09/95. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to wood burning devices; and amending RCW
2 70.94.473, 70.94.477, 70.94.457, and 70.94.460.

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

4 **Sec. 1.** RCW 70.94.473 and 1991 c 199 s 504 are each amended to
5 read as follows:

6 (1) Any person in a residence or commercial establishment which has
7 an adequate source of heat without burning wood shall:

8 (a) Not burn wood in any solid fuel burning device whenever the
9 department has determined under RCW 70.94.715 that any air pollution
10 episode exists in that area;

11 (b) Not burn wood in any solid fuel burning device except those
12 which are either Oregon department of environmental quality phase II or
13 United States environmental protection agency certified or certified by
14 the department under RCW 70.94.457(1) or a pellet stove either
15 certified or issued an exemption by the United States environmental
16 protection agency in accordance with Title 40, Part 60 of the code of
17 federal regulations, in the geographical area and for the period of
18 time that a first stage of impaired air quality has been determined, by
19 the department or any authority, for that area. A first stage of

1 impaired air quality is reached when particulates ten microns and
2 smaller in diameter are at an ambient level of seventy-five micrograms
3 per cubic meter measured on a twenty-four hour average or when carbon
4 monoxide is at an ambient level of eight parts of contaminant per
5 million parts of air by volume measured on an eight-hour average; and

6 (c) Not burn wood in any solid fuel burning device in a
7 geographical area and for the period of time that a second stage of
8 impaired air quality has been determined by the department or any
9 authority, for that area. A second stage of impaired air quality is
10 reached when particulates ten microns and smaller in diameter are at an
11 ambient level of one hundred five micrograms per cubic meter measured
12 on a twenty-four hour average.

13 ~~(2) ((If a local air authority exercises the limitation on solid
14 fuel burning devices specified under RCW 70.94.477(2), a single stage
15 of impaired air quality applies in the geographical area defined by the
16 authority in accordance with RCW 70.94.477(2) and is reached when
17 particulates ten microns and smaller in diameter are at an ambient
18 level of ninety micrograms per cubic meter measured on a twenty four
19 hour average or when carbon monoxide is at an ambient level of eight
20 parts of contaminant per million parts of air by volume measured on an
21 eight hour average.~~

22 ~~If this single stage of impaired air quality is reached, no person
23 in a residence or commercial establishment that has an adequate source
24 of heat without burning wood shall burn wood in any solid fuel burning
25 device, including those which meet the standards set forth in RCW
26 70.94.457.~~

27 ~~(3))~~ Actions of the department and local air pollution control
28 authorities under this section shall preempt actions of other state
29 agencies and local governments for the purposes of controlling air
30 pollution from solid fuel burning devices, except where authorized by
31 ~~((this act))~~ chapter 199, Laws of 1991.

32 **Sec. 2.** RCW 70.94.477 and 1990 c 128 s 3 are each amended to read
33 as follows:

34 (1) Unless allowed by rule, under chapter 34.05 RCW, a person shall
35 not cause or allow any of the following materials to be burned in any
36 residential solid fuel burning device:

37 (a) Garbage;

38 (b) Treated wood;

- 1 (c) Plastics;
- 2 (d) Rubber products;
- 3 (e) Animals;
- 4 (f) Asphaltic products;
- 5 (g) Waste petroleum products;
- 6 (h) Paints; or
- 7 (i) Any substance, other than properly seasoned fuel wood, which
- 8 normally emits dense smoke or obnoxious odors.

9 (2) ~~((On or after July 1, 1995,))~~ For the sole purpose of a
10 contingency measure to meet the requirements of section 172(c)(9) of
11 the federal clean air act, a local authority or the department may
12 ~~((geographically limit))~~ prohibit the use of solid fuel burning
13 devices, except fireplaces as defined in RCW 70.94.453(3), wood stoves
14 meeting the standards set forth in RCW 70.94.457 or pellet stoves
15 issued an exemption certificate by the United States environmental
16 protection agency in accordance with Title 40, Part 60 of the code of
17 federal regulations, if the United States environmental protection
18 agency, in consultation with the department and the local authority
19 makes written findings that:

20 (a) The area has failed to make reasonable further progress or
21 attain or maintain a national ambient air quality standard; and

22 (b) Emissions from solid fuel burning devices from a particular
23 geographic area are a contributing factor to such failure to make
24 reasonable further progress or attain or maintain a national ambient
25 air quality standard. ~~((An authority shall allow an exemption from~~
26 ~~this subsection for low income persons who reside in a geographical~~
27 ~~area affected by this subsection. In the exercise of this limitation,~~
28 ~~a local authority shall consider the following factors:~~

29 ~~(a) The contribution of solid fuel burning devices that do not meet~~
30 ~~the standards set forth in RCW 70.94.457 to nonattainment of national~~
31 ~~ambient air quality standards;~~

32 ~~(b) The population density of geographical areas within the local~~
33 ~~authority's jurisdiction giving greater consideration to urbanized~~
34 ~~areas; and~~

35 ~~(c) The public health effects of use of solid fuel burning devices~~
36 ~~which do not meet the standards set forth in RCW 70.94.457.))~~

37 **Sec. 3.** RCW 70.94.457 and 1991 c 199 s 501 are each amended to
38 read as follows:

1 The department of ecology shall establish by rule under chapter
2 34.05 RCW:

3 (1) State-wide emission performance standards for new solid fuel
4 burning devices. Notwithstanding any other provision of this chapter
5 which allows an authority to adopt more stringent emission standards,
6 no authority shall adopt any emission standard for new solid fuel
7 burning devices other than the state-wide standard adopted by the
8 department under this section.

9 (a) After January 1, 1995, no solid fuel burning device shall be
10 offered for sale in this state to residents of this state that does not
11 meet the following particulate air contaminant emission standards under
12 the test methodology of the United States environmental protection
13 agency in effect on January 1, 1991, or an equivalent standard under
14 any test methodology adopted by the United States environmental
15 protection agency subsequent to such date: (i) Two and one-half grams
16 per hour for catalytic wood stoves; and (ii) four and one-half grams
17 per hour for all other solid fuel burning devices. For purposes of
18 this subsection, "equivalent" shall mean the emissions limits specified
19 in this subsection multiplied by a statistically reliable conversion
20 factor determined by the department that compares the difference
21 between the emission test methodology established by the United States
22 environmental protection agency prior to May 15, 1991, with the test
23 methodology adopted subsequently by the agency. Subsection (a) of this
24 subsection does not apply to fireplaces.

25 (b) After January 1, 1997, no fireplace, except masonry fireplaces,
26 shall be offered for sale unless such fireplace meets the 1990 United
27 States environmental protection agency standards for wood stoves or
28 equivalent standard that may be established by the state building code
29 council by rule. Prior to January 1, 1997, the state building code
30 council shall establish by rule a methodology for the testing of
31 factory-built fireplaces. The methodology shall be designed to achieve
32 a particulate air emission standard equivalent to the 1990 United
33 States environmental protection agency standard for wood stoves. In
34 developing the rules, the council shall include on the technical
35 advisory committee at least one representative from the masonry
36 fireplace builders and at least one representative of the factory-built
37 fireplace manufacturers.

38 (c) Prior to January 1, 1997, the state building code council shall
39 establish by rule design standards for the construction of new masonry

1 fireplaces in Washington state. In developing the rules, the council
2 shall include on the technical advisory committee at least one
3 representative from the masonry fireplace builders and at least one
4 representative of the factory-built fireplace manufacturers. It shall
5 be the goal of the council to develop design standards that generally
6 achieve reductions in particulate air contaminant emissions
7 commensurate with the reductions being achieved by factory-built
8 fireplaces at the time the standard is established.

9 (d) Actions of the department and local air pollution control
10 authorities under this section shall preempt actions of other state
11 agencies and local governments for the purposes of controlling air
12 pollution from solid fuel burning devices, except where authorized by
13 this act.

14 (e) Subsection (1)(a) of this section shall not apply to
15 fireplaces.

16 (f) Notwithstanding (a) of this subsection, the department is
17 authorized to adopt, by rule, emission standards adopted by the United
18 States environmental protection agency for new wood stoves sold at
19 retail. For solid fuel burning devices for which the United States
20 environmental protection agency has not established emission standards,
21 the department may exempt or establish, by rule, state-wide standards
22 including emission levels and test procedures for such devices and such
23 emission levels and test procedures shall be equivalent to emission
24 levels per pound per hour burned for other new wood stoves and
25 fireplaces regulated under this subsection.

26 (2) A program to:

27 (a) Determine whether a new solid fuel burning device complies with
28 the state-wide emission performance standards established in subsection
29 (1) of this section; and

30 (b) Approve the sale of devices that comply with the state-wide
31 emission performance standards.

32 **Sec. 4.** RCW 70.94.460 and 1987 c 405 s 7 are each amended to read
33 as follows:

34 After July 1, 1988, no person shall sell, offer to sell, or
35 knowingly advertise to sell a new wood stove in this state to a

1 resident of this state unless the wood stove has been approved by the
2 department under the program established under RCW 70.94.457.

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