
SUBSTITUTE HOUSE BILL 1034

State of Washington

57th Legislature

2001 Regular Session

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Pennington, Mielke and Schindler)

Read first time . Referred to Committee on .

1 AN ACT Relating to outdoor burning; and amending RCW 70.94.743 and
2 70.94.745.

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

4 **Sec. 1.** RCW 70.94.743 and 1998 c 68 s 1 are each amended to read
5 as follows:

6 (1) Consistent with the policy of the state to reduce outdoor
7 burning to the greatest extent practical:

8 (a) Outdoor burning shall not be allowed in any area of the state
9 where federal or state ambient air quality standards (~~(are))~~ have been
10 exceeded for pollutants emitted by outdoor burning unless the
11 department determines that outdoor burning has not contributed, and is
12 not expected to contribute significantly to exceedances of the
13 standards in this area.

14 (b) Outdoor burning shall not be allowed in any (~~urban growth area~~
15 ~~as defined by RCW 36.70A.030, or any)) city of the state having a
16 population greater than ten thousand people if such cities are
17 threatened to exceed state or federal air quality standards, and
18 alternative disposal practices consistent with good solid waste
19 management are reasonably available or practices eliminating production~~

1 of organic refuse are reasonably available. In no event shall such
2 burning be allowed after December 31, 2000(~~(, except that within the~~
3 ~~urban growth areas for cities having a population of less than five~~
4 ~~thousand people, that are neither within nor contiguous with any~~
5 ~~nonattainment or maintenance area designated under the federal clean~~
6 ~~air act, in no event shall such burning be allowed after December 31,~~
7 ~~2006)).~~

8 (c) Outdoor burning shall not be allowed in any urban growth area
9 as defined by RCW 36.70A.030, unless:

10 (i) The urban growth area is within the jurisdiction of a local air
11 authority and that local air authority allows outdoor burning in that
12 urban growth area, or portions thereof, subject to the conditions of
13 this section; or

14 (ii) The urban growth area is not within the jurisdiction of a
15 local air authority and the county the urban growth area is within,
16 after consultation with the department, allows outdoor burning in that
17 urban growth area, or portions thereof, subject to the provisions of
18 this section.

19 (d) A local air authority or a county may not relax the outdoor
20 burning prohibition in an urban growth area within or contiguous with
21 any nonattainment area or maintenance area established under the
22 federal clean air act, within the incorporated portions of an urban
23 growth area, or within any portion of an urban growth area that has a
24 general population density of one thousand or more persons per square
25 mile after the effective date of this section if those portions are
26 contiguous with the incorporated portions of the urban growth area.

27 (e) Outdoor burning shall not be allowed in any area of the state
28 where it is expressly prohibited by the local air authority with
29 jurisdiction over that area. If no local air authorities have
30 jurisdiction, then the county with jurisdiction over the area may
31 expressly prohibit outdoor burning after consulting with the
32 department.

33 (f) Urban growth areas for cities having a population of five
34 thousand or fewer, that are neither within nor contiguous with any
35 nonattainment area or maintenance area designated under the federal
36 clean air act are not subject to the provisions of this section until
37 December 31, 2006.

38 (g) Notwithstanding any other provision of this section, outdoor
39 burning may be allowed for the exclusive purpose of managing storm or

1 flood-related debris. The decision to allow burning shall be made by
2 the entity with permitting jurisdiction as determined under RCW
3 70.94.660 or 70.94.755. If outdoor burning is allowed in areas subject
4 to (a) or (b) of this subsection, a permit shall be required, and a fee
5 may be collected to cover the expenses of administering and enforcing
6 the permit. All conditions and restrictions pursuant to RCW
7 70.94.750(1) and 70.94.775 apply to outdoor burning allowed under this
8 section.

9 (2) "Outdoor burning" means the combustion of material of any type
10 in an open fire or in an outdoor container without providing for the
11 control of combustion or the control of emissions from the combustion.
12 Local air authorities may adopt rules regarding the use and kind of
13 containers that may be used for outdoor burning within their
14 jurisdictions. Upon adoption, local rules adopted under this
15 subsection shall supersede any rule on the same subject issued by the
16 department and may be less restrictive or more strict than any rule on
17 the same subject issued by the department.

18 (3) This section shall not apply to silvicultural burning used to
19 improve or maintain fire dependent ecosystems for rare plants or
20 animals within state, federal, and private natural area preserves,
21 natural resource conservation areas, parks, and other wildlife areas.

22 **Sec. 2.** RCW 70.94.745 and 1995 c 206 s 1 are each amended to read
23 as follows:

24 (1) It shall be the responsibility and duty of the department of
25 natural resources, department of ecology, department of agriculture,
26 fire districts, and local air pollution control authorities to
27 establish, through regulations, ordinances, or policy, a limited
28 burning permit program.

29 (2) The permit program shall apply to residential and land clearing
30 burning in the following areas:

31 (a) In the nonurban areas of any county with an unincorporated
32 population of greater than fifty thousand; and

33 (b) In any city and urban growth area that is not otherwise
34 prohibited from burning pursuant to RCW 70.94.743.

35 (3) The permit program shall apply only to land clearing burning in
36 the nonurban areas of any county with an unincorporated population of
37 less than fifty thousand.

1 (4) The permit program may be limited to a general permit by rule,
2 or by verbal, written, or electronic approval by the permitting entity.

3 (5) Notwithstanding any other provision of this section, neither a
4 permit nor the payment of a fee shall be required for outdoor burning
5 for the purpose of disposal of tumbleweeds blown by wind. Such burning
6 shall not be conducted during an air pollution episode or any stage of
7 impaired air quality declared under RCW (~~(70.94.714)~~) 70.94.715. This
8 subsection (5) shall only apply within counties with a population less
9 than two hundred fifty thousand.

10 (6) Burning shall be prohibited in an area when an alternate
11 technology or method of disposing of the organic refuse is available,
12 reasonably economical, and less harmful to the environment. The
13 department shall define the term "reasonably economical" in a report to
14 the legislature by December 1, 2002. In developing this definition,
15 the department shall consult with local air authorities where they
16 exist, and with the governing bodies of individual counties where no
17 local air authority exists. The term may not be adopted by rule until
18 the legislature has had an opportunity to review the definition. It is
19 the policy of this state to foster and encourage development of
20 alternate methods or technology for disposing of or reducing the amount
21 of organic refuse.

22 (7) Incidental agricultural burning must be allowed without
23 applying for any permit and without the payment of any fee if:

24 (a) The burning is incidental to commercial agricultural
25 activities;

26 (b) The operator notifies the local fire department within the area
27 where the burning is to be conducted;

28 (c) The burning does not occur during an air pollution episode or
29 any stage of impaired air quality declared under RCW 70.94.715; and

30 (d) Only the following items are burned:

31 (i) Orchard prunings;

32 (ii) Organic debris along fence lines or irrigation or drainage
33 ditches; or

34 (iii) Organic debris blown by wind.

35 (8) As used in this section, "nonurban areas" are unincorporated
36 areas within a county that is not designated as an urban growth area
37 under chapter 36.70A RCW.

38 (9) Nothing in this section shall require fire districts to enforce
39 air quality requirements related to outdoor burning, unless the fire

1 district enters into an agreement with the department of ecology,
2 department of natural resources, a local air pollution control
3 authority, or other appropriate entity to provide such enforcement.

--- END ---