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ENGROSSED SUBSTITUTE HOUSE BILL 2785

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State of Washington

64th Legislature

2016 Regular Session

By House Environment (originally sponsored by Representatives Shea, Short, Schmick, Taylor, Scott, and McCaslin)

READ FIRST TIME 02/01/16.

1 AN ACT Relating to ensuring that restrictions on the use of solid  
2 fuel burning devices do not prohibit the installation or replacement  
3 of solid fuel burning devices or the use of these devices during  
4 temporary outages of other sources of heat; and amending RCW  
5 70.94.473.

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

7 **Sec. 1.** RCW 70.94.473 and 2012 c 219 s 1 are each amended to  
8 read as follows:

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

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

14 (b) Not burn wood in any solid fuel burning device except those  
15 which are either Oregon department of environmental quality phase II  
16 or United States environmental protection agency certified or  
17 certified by the department under RCW 70.94.457(1) or a pellet stove  
18 either certified or issued an exemption by the United States  
19 environmental protection agency in accordance with Title 40, Part 60  
20 of the code of federal regulations, in the geographical area and for

1 the period of time that a first stage of impaired air quality has  
2 been determined, by the department or any authority, for that area.

3 (i) A first stage of impaired air quality is reached when  
4 forecasted meteorological conditions are predicted to cause fine  
5 particulate levels to exceed thirty-five micrograms per cubic meter,  
6 measured on a twenty-four hour average, within forty-eight hours,  
7 except for areas of fine particulate nonattainment or areas at risk  
8 for fine particulate nonattainment;

9 (ii) A first stage burn ban for impaired air quality may be  
10 called for a county containing fine particulate nonattainment areas  
11 or areas at risk for fine particulate nonattainment, and when  
12 feasible only for the necessary portions of the county, when  
13 forecasted meteorological conditions are predicted to cause fine  
14 particulate levels to reach or exceed thirty micrograms per cubic  
15 meter, measured on a twenty-four hour average, within seventy-two  
16 hours; and

17 (c)(i) Not burn wood in any solid fuel burning device in a  
18 geographical area and for the period of time that a second stage of  
19 impaired air quality has been determined by the department or any  
20 authority, for that area. A second stage of impaired air quality is  
21 reached when a first stage of impaired air quality has been in force  
22 and has not been sufficient to reduce the increasing fine particulate  
23 pollution trend, fine particulates are at an ambient level of twenty-  
24 five micrograms per cubic meter measured on a twenty-four hour  
25 average, and forecasted meteorological conditions are not expected to  
26 allow levels of fine particulates to decline below twenty-five  
27 micrograms per cubic meter for a period of twenty-four hours or more  
28 from the time that the fine particulates are measured at the trigger  
29 level.

30 (ii) A second stage burn ban may be called without calling a  
31 first stage burn ban only when all of the following occur and shall  
32 require the department or the local air pollution control authority  
33 calling a second stage burn ban under this subsection to comply with  
34 the requirements of subsection (3) of this section:

35 (A) Fine particulate levels have reached or exceeded twenty-five  
36 micrograms per cubic meter, measured on a twenty-four hour average;

37 (B) Meteorological conditions have caused fine particulate levels  
38 to rise rapidly;

39 (C) Meteorological conditions are predicted to cause fine  
40 particulate levels to exceed the thirty-five micrograms per cubic

1 meter, measured on a twenty-four hour average, within twenty-four  
2 hours; and

3 (D) Meteorological conditions are highly likely to prevent  
4 sufficient dispersion of fine particulate.

5 (iii) In fine particulate nonattainment areas or areas at risk  
6 for fine particulate nonattainment, a second stage burn ban may be  
7 called for the county containing the nonattainment area or areas at  
8 risk for nonattainment, and when feasible only for the necessary  
9 portions of the county, without calling a first stage burn ban only  
10 when (c)(ii)(A), (B), and (D) of this subsection have been met and  
11 meteorological conditions are predicted to cause fine particulate  
12 levels to reach or exceed thirty micrograms per cubic meter, measured  
13 on a twenty-four hour average, within twenty-four hours.

14 (2) Actions of the department and local air pollution control  
15 authorities under this section shall preempt actions of other state  
16 agencies and local governments for the purposes of controlling air  
17 pollution from solid fuel burning devices, except where authorized by  
18 chapter 199, Laws of 1991.

19 (3)(a) The department or any local air pollution control  
20 authority that has called a second stage burn ban under the authority  
21 of subsection (1)(c)(ii) of this section shall, within ninety days,  
22 prepare a written report describing:

23 ((+a)) (i) The meteorological conditions that resulted in their  
24 calling the second stage burn ban;

25 ((+b)) (ii) Whether the agency could have taken actions to avoid  
26 calling a second stage burn ban without calling a first stage burn  
27 ban; and

28 ((+c)) (iii) Any changes the department or authority is making  
29 to its procedures of calling first stage and second stage burn bans  
30 to avoid calling a second stage burn ban without first calling a  
31 first stage burn ban.

32 (b) After consulting with affected parties, the department shall  
33 prescribe the format of such a report and may also require additional  
34 information be included in the report. All reports shall be sent to  
35 the department and the department shall keep the reports on file for  
36 not less than five years and available for public inspection and  
37 copying in accordance with RCW 42.56.090.

38 (4) For the purposes of chapter 219, Laws of 2012, an area at  
39 risk for nonattainment means an area where the three-year average of  
40 the annual ninety-eighth percentile of twenty-four hour fine

1 particulate values is greater than twenty-nine micrograms per cubic  
2 meter, based on the years 2008 through 2010 monitoring data.

3 (5)(a) Nothing in this section restricts a person from installing  
4 or repairing a certified solid fuel burning device approved by the  
5 department under the program established under RCW 70.94.457 in a  
6 residence or commercial establishment or from replacing a solid fuel  
7 burning device with a certified solid fuel burning device. Nothing in  
8 this section restricts a person from burning wood in a solid fuel  
9 burning device, regardless of whether a burn ban has been called, if  
10 there is an emergency power outage. In addition, for the duration of  
11 an emergency power outage, nothing restricts the use of a solid fuel  
12 burning device or the temporary installation, repair, or replacement  
13 of a solid fuel burning device to prevent the loss of life, health,  
14 or business.

15 (b) For the purposes of this subsection, an emergency power  
16 outage includes:

17 (i) Any natural or human-caused event beyond the control of a  
18 person that leave the person's residence or commercial establishment  
19 temporarily without an adequate source of heat other than the solid  
20 fuel burning device; or

21 (ii) A natural or human-caused event for which the governor  
22 declares an emergency in an area under chapter 43.06 RCW, including a  
23 public disorder, disaster, or energy emergency under RCW  
24 43.06.010(12).

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