

# SENATE BILL REPORT

## ESHB 1080

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As Reported By Senate Committee On:  
Ecology & Parks, March 30, 1995

**Title:** An act relating to exempting certain nonurban areas from outdoor burning permit requirements.

**Brief Description:** Establishing an exemption to the outdoor burning permit program for certain nonurban areas.

**Sponsors:** House Committee on Agriculture & Ecology (originally sponsored by Representatives Pennington, Chappell, McMorris, Carlson, Benton, McMahan, B. Thomas, Clements, Brumsickle, Boldt, Hatfield, Buck, Campbell, Delvin, Johnson, Sheldon, Mulliken, Kessler, Basich, Fuhrman, Morris, Huff, Honeyford, Chandler, Elliot, Schoesler and Sheahan).

**Brief History:**

**Committee Activity:** Ecology & Parks: 3/28/95, 3/30/95 [DPA].

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**Majority Report:** Do pass as amended.

Signed by Senators Fraser, Chair; C. Anderson, Vice Chair; McAuliffe, McDonald, Spanel and Swecker.

**Staff:** Gary Wilburn (786-7453)

**Background:** Open burning is a significant source of air pollution in Washington State. The contribution to the state's annual air pollution from agricultural, silvicultural and residential open burning is an estimated 12 percent. Since the early 1970's, state law has directed that state and local air pollution control agencies administer a "one-permit" system for approving open burning by residential and commercial sources. Different measures are provided for regulating agricultural and silvicultural burning, and are not included in the discussion below.

In 1991 the Legislature substantially revised the open burning laws. It prohibited outdoor fires in areas that are in nonattainment with the federal air standards for pollutants emitted by outdoor fires, primarily particulate matter and carbon monoxide. It also prohibited such fires during periods of "impaired air quality," when certain wood stoves and fireplaces are also prohibited from operation. Finally, it set a deadline for banning outdoor fires by the year 2000 within urban growth areas and in cities over 10,000 population whose air quality threatens to exceed federal air-quality standards. In such areas, bans are to be phased in before the year 2000 as alternative disposal methods became available.

The administration and enforcement of the permit system was not specified by statute, but assigned collectively to air control agencies and local fire control agencies. Rules adopted by the Department of Ecology required local action to assume regulatory responsibility for

the permit system by November 1994, without which outdoor fires within such area would be prohibited.

State laws also specify materials that may not be burned in outdoor fires, and authorize the Department of Ecology to adopt rules to implement the limited burning policy provided by state law. Among the rules adopted are limits on the size of fires and setbacks from structures. State law directs administering agencies to prevent and abate "nuisances" caused by outdoor fires, but do not define this term.

**Summary of Amended Bill:** The outdoor burning permit program applies as to residential and land clearing burning within: (1) cities; (2) urban growth areas; and (3) outside urban growth areas in counties with unincorporated populations more than 50,000. In all other areas, the permit program applies only to land clearing. The permit program may be limited to general permit by rule, or by verbal, written, or electronic approval methods. Nothing requires fire districts to enforce air quality requirements related to outdoor burning unless an agreement to that effect has been entered with the appropriate agency.

**Amended Bill Compared to Substitute Bill:** The Senate amendments delete the following provisions: (1) orchard pruning and irrigation ditches to be considered in the outdoor burning permit program; (2) the provision limiting local air pollution control authority rules regulating agricultural burning; and (3) allowing paper and paper products to be burned in outdoor fires. The Senate amendments exempt rural areas from the outdoor burning permit program in counties with rural populations less than 50,000, rather than all counties outside of cities and urban growth areas.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** Lewis County citizens are doing a good job of limiting their backyard burning and a permit program does not make sense for the rural parts of our county.

**Testimony Against:** The provision allowing burning of paper products is too broad; it could allow burning large quantities of paper stored in a household. Backyard burning is a principal source of wildfires according to the DNR and a regulatory program is needed to address safety as well as air quality concerns. The provision on orchard pruning to be regulated as outdoor burning could actually increase regulatory controls over this agricultural activity.

**Testified:** Representative Pennington, prime sponsor; Carl Hemenway, Lewis County Commissioner (pro); Richard Graham, Lewis County Commissioners (pro); Glenn Aldrich, Lewis County Commissioner (pro); Stu Clark, Ecology (con); Eric Skelton, Spokane County Air Pollution Control Authority (con); Jim Nolan, Puget Sound Air Pollution Control Agency (con); Bruce Wishart, Sierra Club (con).