

# SENATE BILL REPORT

## SSB 6055

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As Amended by House, February 27, 2018

**Title:** An act relating to creating a pilot program for outdoor burning for cities or towns located partially inside a quarantine area for apple maggot.

**Brief Description:** Creating a pilot program for outdoor burning for cities or towns located partially inside a quarantine area for apple maggot.

**Sponsors:** Senate Committee on Energy, Environment & Technology (originally sponsored by Senators Hawkins, Carlyle, Palumbo and Mullet).

**Brief History:**

**Committee Activity:** Energy, Environment & Technology: 1/11/18, 1/31/18 [DPS].

**Floor Activity:**

Passed Senate: 2/13/18, 47-0.

Passed House: 2/27/18, 98-0.

**Brief Summary of First Substitute Bill**

- Establishes an outdoor burning pilot program to allow cities and towns partially located within an apple maggot quarantined area to burn brush and yard waste.
- Requires burning to be conducted in consultation with The Department of Ecology (Ecology), the Washington State Department of Agriculture (WSDA), or local air authority, and under the supervision of the city or town fire department or local fire officials.
- Requires WSDA and Ecology to evaluate the effectiveness of the pilot program and submit a report to the Legislature by December 31, 2020.
- Expires the pilot program provisions of the act on December 31, 2021.

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**SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TECHNOLOGY**

**Majority Report:** That Substitute Senate Bill No. 6055 be substituted therefor, and the substitute bill do pass.

Signed by Senators Carlyle, Chair; Palumbo, Vice Chair; Ericksen, Ranking Member; Brown, Hawkins, Hobbs, McCoy, Ranker, Sheldon and Wellman.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Jan Odano (786-7486)

**Background:** The apple maggot (*Rhagoletis pomonella*) is an insect pest that is native to northeastern United States. However, the apple maggot is now found throughout the United States, including Washington State, where it was more than likely introduced through transportation of infested apple fruit. Apple maggots have been found in 17 plant species, including apples and hawthorns—its native host. Under the statutory authority of WSDA, the apple maggot is subject to quarantine regulations. The transport of homegrown fresh fruit, including apples, crabapples, cherries, pears, plums, and apricots, out of a quarantined area is prohibited. All counties in western Washington are quarantined for apple maggot, as is Spokane County. Parts of Chelan, Kittitas, Yakima, and Lincoln counties are quarantined.

Under the federal Clean Air Act (CAA), each state maintains a State Implementation Plan (SIP) that describes how the state implements clean air programs to achieve the federal ambient air quality standards for air pollutants. Ecology and local air pollution control authorities (local air authorities) administer the clean air act. Local clean air agencies have the primary responsibility for administering state and federal CAAs in counties which have elected to activate a local air authority or to form a multicounty air authority. In other areas of the state, Ecology is responsible for administering state and federal CAA programs.

Ecology, the local clean air agency, Department of Natural Resources, WSDA, and fire districts are responsible for limited burning permit programs for residential and land clearing burning. Residential and land clearing burning is allowed in nonurban areas with less than a population of 50,000 residents. In urban growth areas, all outdoor burning is prohibited except for barbeques, campfires, and tumbleweeds. Additionally, outdoor burning is allowed in urban growth areas where it is normal, necessary, and customary as an ongoing agricultural activity. Ecology or the local clean air agency are required to issue burn permits including for agricultural burning. The permits must be conditioned to minimize air pollution and ensure consideration of the public interest in air, water, pollution and public safety. Outdoor burning is prohibited in all urban areas and where federal or state ambient air quality standards are exceeded.

**Summary of First Substitute Bill:** An outdoor burning pilot program is established to evaluate the effectiveness of allowing certain cities and towns to burn brush and yard waste under the supervision of local fire authorities. Until July 1, 2020, a city or town that is partially located within an apple maggot quarantine area must be allowed to burn brush and yard waste. The burning must be conducted in consultation with Ecology, WSDA, or local air authority and under the supervision of the city or town fire department or local fire officials. City or town employees, contractors supervised by city or town employees or city or town fire department, or local fire officials must conduct the burning. Burning under the pilot program does not require a permit.

WSDA and Ecology must evaluate the effectiveness of the pilot program and submit a report to the Legislature by December 31, 2020. The report must include: a list of cities and towns burning under the pilot program; the number of times each city or town burned under the pilot program; an estimate of the volume of brush and yard waste burned; and recommendations for improving the pilot program to prevent the transport of apple maggot larvae beyond quarantined areas.

A city or town conducting a burn under the pilot program must provide information requested by WSDA and Ecology in order to complete the report to the Legislature.

The pilot program provisions of the act expires December 31, 2021.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill deals with the conundrum we have in dealing with the apple maggot. We cannot transport yard waste to the waste facility nearby as it is outside the quarantined area. We have partnered with Ecology to be in compliance with their rules. However, there is no economical way to dispose of this waste. The closest site is 120 miles away. We need a solution that does not overburden the residents with costs. We need to find a viable way to have small high heat burns with reduced smoke. This needs to include areas outside of the city.

CON: Protecting against apple maggots is very important. The solutions proposed may cause air pollution problems. The city of Leavenworth is on the edge of not meeting ambient air quality standards. The risk to public health is real and the costs to the communities are real.

**Persons Testifying:** PRO: Senator Brad Hawkins, Prime Sponsor; Margaret Neighbors, City of Leavenworth; Joel Walinski, City of Leavenworth; Sharon Waters, City of Leavenworth; Brenda Blanchfield, Chelan County; Elmer Larsen, Leavenworth council member 1.

CON: Denise Clifford, Washington State Department of Ecology.

**Persons Signed In To Testify But Not Testifying:** No one.

#### **EFFECT OF HOUSE AMENDMENT(S):**

- Removes pilot program.
- Authorizes cities or towns to apply for a burn permit.
- Requires a city or town to issue a media advisory instead of publishing notice when burning.
- Allows burning four times a year rather than two.
- Authorizes the Department of Transportation to issue a special transit permit for transporting brush and yard waste from a partially quarantined area through pest free areas, subject to conditions and provisions determined by the director.
- Revises report requirements to address options for processing and disposing of yard waste from apple maggot quarantined areas.

- Expires burning provisions July 1, 2019.