
SENATE BILL 5004

State of Washington

65th Legislature

2017 Regular Session

By Senators Honeyford, Takko, and Warnick

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1 AN ACT Relating to outdoor burning of organic waste derived from
2 pruning by commercial berry growers; amending RCW 70.94.6514,
3 70.94.6524, and 70.94.6528; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that outdoor burning
6 of organic waste created as a result of pruning at commercial berry
7 growing operations is a necessary and expeditious method of pest and
8 disease control. Therefore, the legislature finds that outdoor
9 burning of organic waste derived from pruning by commercial berry
10 growers must be allowed as provided in this act.

11 **Sec. 2.** RCW 70.94.6514 and 2009 c 118 s 103 are each amended to
12 read as follows:

13 (1) Consistent with the policy of the state to reduce outdoor
14 burning to the greatest extent practical, outdoor burning shall not
15 be allowed in:

16 (a) Any area of the state where federal or state ambient air
17 quality standards are exceeded for pollutants emitted by outdoor
18 burning; or

19 (b) Any urban growth area as defined by RCW 36.70A.030, or any
20 city of the state having a population greater than ten thousand

1 people if such cities are threatened to exceed state or federal air
2 quality standards, and alternative disposal practices consistent with
3 good solid waste management are reasonably available or practices
4 eliminating production of organic refuse are reasonably available.

5 (2) Notwithstanding any other provision of this section, outdoor
6 burning may be allowed for the exclusive purpose of managing storm or
7 flood-related debris. The decision to allow burning shall be made by
8 the entity with permitting jurisdiction as determined under RCW
9 70.94.6534 or 70.94.6518. If outdoor burning is allowed in areas
10 subject to subsection (1)(a) or (b) of this section, a permit shall
11 be required, and a fee may be collected to cover the expenses of
12 administering and enforcing the permit. All conditions and
13 restrictions pursuant to RCW 70.94.6526(1) and 70.94.6512 apply to
14 outdoor burning allowed under this section.

15 (3)(a) Outdoor burning that is normal, necessary, and customary
16 to ongoing agricultural activities, that is consistent with
17 agricultural burning authorized under RCW 70.94.6528 and 70.94.6532,
18 is allowed within the urban growth area in accordance with RCW
19 70.94.6528(8)(a).

20 (b) Outdoor burning of cultivated orchard trees or organic waste
21 derived from pruning by commercial berry growers shall be allowed as
22 an ongoing agricultural activity under this section in accordance
23 with RCW 70.94.6528(8)(b).

24 (4) This section shall not apply to silvicultural burning used to
25 improve or maintain fire dependent ecosystems for rare plants or
26 animals within state, federal, and private natural area preserves,
27 natural resource conservation areas, parks, and other wildlife areas.

28 **Sec. 3.** RCW 70.94.6524 and 2009 c 118 s 301 are each amended to
29 read as follows:

30 (1) It shall be the responsibility and duty of the department of
31 natural resources, department of ecology, department of agriculture,
32 fire districts, and local air pollution control authorities to
33 establish, through regulations, ordinances, or policy, a limited
34 burning permit program.

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

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

1 (b) In any city and urban growth area that is not otherwise
2 prohibited from burning pursuant to RCW 70.94.6514.

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

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

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

16 (6) Burning shall be prohibited in an area when an alternate
17 technology or method of disposing of the organic refuse is available,
18 reasonably economical, and less harmful to the environment. It is the
19 policy of this state to foster and encourage development of alternate
20 methods or technology for disposing of or reducing the amount of
21 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
27 area 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; or

35 (iv) Organic waste derived from pruning by commercial berry
36 growers.

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

1 (9) Nothing in this section shall require fire districts to
2 enforce air quality requirements related to outdoor burning, unless
3 the fire district enters into an agreement with the department of
4 ecology, department of natural resources, a local air pollution
5 control authority, or other appropriate entity to provide such
6 enforcement.

7 **Sec. 4.** RCW 70.94.6528 and 2010 c 70 s 1 are each amended to
8 read as follows:

9 (1) Any person who proposes to set fires in the course of
10 agricultural activities shall obtain a permit from an air pollution
11 control authority, the department of ecology, or a local entity
12 delegated permitting authority under RCW 70.94.6530. General permit
13 criteria of statewide applicability shall be established by the
14 department, by rule, after consultation with the various air
15 pollution control authorities.

16 (a) Permits shall be issued under this section based on seasonal
17 operations or by individual operations, or both.

18 (b) Incidental agricultural burning consistent with provisions
19 established in RCW 70.94.6524 is allowed without applying for any
20 permit and without the payment of any fee.

21 (2) The department of ecology, local air authorities, or a local
22 entity with delegated permit authority shall:

23 (a) Condition all permits to ensure that the public interest in
24 air, water, and land pollution and safety to life and property is
25 fully considered;

26 (b) Condition all burning permits to minimize air pollution
27 insofar as practical;

28 (c) Act upon, within seven days from the date an application is
29 filed under this section, an application for a permit to set fires in
30 the course of agricultural burning for controlling diseases, insects,
31 weed abatement, or development of physiological conditions conducive
32 to increased crop yield;

33 (d) Provide convenient methods for issuance and oversight of
34 agricultural burning permits; and

35 (e) Work, through agreement, with counties and cities to provide
36 convenient methods for granting permission for agricultural burning,
37 including telephone, facsimile transmission, issuance from local city
38 or county offices, or other methods.

1 (3) A local air authority administering the permit program under
2 subsection (2) of this section shall not limit the number of days of
3 allowable agricultural burning, but may consider the time of year,
4 meteorological conditions, and other criteria specified in rules
5 adopted by the department to implement subsection (2) of this
6 section.

7 (4) In addition to following any other requirements established
8 by the department to protect air quality pursuant to other laws,
9 applicants for permits must show that the setting of fires as
10 requested is the most reasonable procedure to follow in safeguarding
11 life or property under all circumstances or is otherwise reasonably
12 necessary to successfully carry out the enterprise in which the
13 applicant is engaged, or both. Nothing in this section relieves the
14 applicant from obtaining permits, licenses, or other approvals
15 required by any other law.

16 (5) The department of ecology, the appropriate local air
17 authority, or a local entity with delegated permitting authority
18 pursuant to RCW 70.94.6530 at the time the permit is issued shall
19 assess and collect permit fees for burning under this section. All
20 fees collected shall be deposited in the air pollution control
21 account created in RCW 70.94.015, except for that portion of the fee
22 necessary to cover local costs of administering a permit issued under
23 this section. Fees shall be set by rule by the permitting agency at
24 the level determined by the task force created by subsection (6) of
25 this section, but fees for field burning shall not exceed three
26 dollars and seventy-five cents per acre to be burned, or in the case
27 of pile burning shall not exceed one dollar per ton of material
28 burned.

29 (6) An agricultural burning practices and research task force
30 shall be established under the direction of the department. The task
31 force shall be composed of a representative from the department who
32 shall serve as chair; one representative of eastern Washington local
33 air authorities; three representatives of the agricultural community
34 from different agricultural pursuits; one representative of the
35 department of agriculture; two representatives from universities or
36 colleges knowledgeable in agricultural issues; one representative of
37 the public health or medical community; and one representative of the
38 conservation districts. The task force shall:

1 (a) Identify best management practices for reducing air
2 contaminant emissions from agricultural activities and provide such
3 information to the department and local air authorities;

4 (b) Determine the level of fees to be assessed by the permitting
5 agency pursuant to subsection (5) of this section, based upon the
6 level necessary to cover the costs of administering and enforcing the
7 permit programs, to provide funds for research into alternative
8 methods to reduce emissions from such burning, and to the extent
9 possible be consistent with fees charged for such burning permits in
10 neighboring states. The fee level shall provide, to the extent
11 possible, for lesser fees for permittees who use best management
12 practices to minimize air contaminant emissions;

13 (c) Identify research needs related to minimizing emissions from
14 agricultural burning and alternatives to such burning; and

15 (d) Make recommendations to the department on priorities for
16 spending funds provided through this chapter for research into
17 alternative methods to reduce emissions from agricultural burning.

18 (7) Conservation districts and the Washington State University
19 agricultural extension program in conjunction with the department
20 shall develop public education material for the agricultural
21 community identifying the health and environmental effects of
22 agricultural outdoor burning and providing technical assistance in
23 alternatives to agricultural outdoor burning.

24 (8)(a) Outdoor burning that is normal, necessary, and customary
25 to ongoing agricultural activities, that is consistent with
26 agricultural burning authorized under this section and RCW
27 70.94.6532, is allowed within the urban growth area as described in
28 RCW 70.94.6514 if the burning is not conducted during air quality
29 episodes, or where a determination of impaired air quality has been
30 made as provided in RCW 70.94.473, and the agricultural activities
31 preceded the designation as an urban growth area.

32 (b) Outdoor burning of cultivated orchard trees or organic waste
33 derived from pruning by commercial berry growers, whether or not
34 agricultural crops will be replanted on the land, shall be allowed as
35 an ongoing agricultural activity under this section if a local
36 horticultural pest and disease board formed under chapter 15.09 RCW,
37 an extension office agent with Washington State University that has
38 horticultural experience, or an entomologist employed by the
39 department of agriculture, has determined in writing that burning is

1 an appropriate method to prevent or control the spread of
2 horticultural pests or diseases.

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