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**SENATE BILL 5535**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Stanford, Valdez, Lovelett, Nobles, Saldaña, and C. Wilson

AN ACT Relating to protecting human health from excessive air pollution; amending RCW 70A.15.6010; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that toxic and conventional air pollutants are known or suspected to cause serious health problems. Potential health effects include cancer, lung damage, heart disease, and nerve damage. These pollutants are even more dangerous during periods of unhealthy air quality such as stagnant weather conditions or wildfire smoke events. When weather conditions and rising pollution levels reach a certain threshold, the department of ecology and regional clean air authorities can issue an air quality burn ban on the use of woodstoves in homes and businesses. The burn bans are mandatory, yet temporary, to restrict the use of wood stoves and fireplaces when human health may be impacted, yet major industrial sources of the same contaminants are not subject to such a limitation on emissions. To further protect public health, the legislature intends to provide the department of ecology and local air authorities with the authority to limit the operations of industrial facilities that are major sources of such contaminants, by incorporating specific provisions into the state's air quality episode avoidance plans.

**Sec.**  RCW 70A.15.6010 and 2020 c 20 s 1152 are each amended to read as follows:

(1) The department of ecology is hereby authorized to develop an episode avoidance plan providing for the phased reduction of emissions wherever and whenever an air pollution episode is forecast. Such an episode avoidance plan shall conform with any applicable federal standards and shall be effective statewide. The episode avoidance plan may be implemented on an area basis in accordance with the occurrence of air pollution episodes in any given area.

(2) The department of ecology may delegate authority to adopt source emission reduction plans and authority to implement all stages of occurrence up to and including the warning stage, and all intermediate stages up to the warning stage, in any area of the state, to the air pollution control authority with jurisdiction therein.

(3) The episode avoidance plan, which shall be established by ((~~regulation~~)) rule in accordance with chapter 34.05 RCW, shall include, but not be limited to, the following:

((~~(1)~~)) (a) The designation of episode criteria and stages, the occurrence of which will require the carrying out of preplanned episode avoidance procedures. The stages of occurrence shall be ((~~(a)~~)) (i) forecast((~~, (b)~~)); (ii) alert((~~, (c)~~)); (iii) warning((~~, (d)~~)); (iv) emergency((~~,~~)); and such intermediate stages as the department shall designate. "Forecast" means the presence of meteorological conditions that are conducive to accumulation of air contaminants and is the first stage of an episode. The department shall not call a forecast episode prior to the department or an authority calling a first stage impaired air quality condition as provided by RCW 70A.15.3580(1)(b) or calling a single-stage impaired air quality condition as provided by RCW 70A.15.3580. "Alert" means concentration of air contaminants at levels at which short-term health effects may occur, and is the second stage of an episode. "Warning" means concentrations are continuing to degrade, contaminant concentrations have reached a level which, if maintained, can result in damage to health, and additional control actions are needed and is the third level of an episode. "Emergency" means the air quality is posing an imminent and substantial endangerment to public health and is the fourth level of an episode;

((~~(2)~~)) (b) The requirement that persons responsible for the operation of air contaminant sources prepare and obtain approval from the director of source emission reduction plans, consistent with good operating practice and safe operating procedures, for reducing emissions during designated episode stages;

((~~(3)~~)) (c) During a second stage burn ban declared pursuant to RCW 70A.15.3580 and during any episode declared pursuant to this section, require that major industrial manufacturing air contaminant sources of fine particulate matter reduce operations;

(d) Provision for the director of the department of ecology or his or her authorized representative, or the air pollution control officer if implementation has been delegated, on the satisfaction of applicable criteria, to declare and terminate the forecast, alert, warning and all intermediate stages, up to the warning episode stage, such declarations constituting orders for action in accordance with applicable source emission reduction plans;

((~~(4)~~)) (e) Provision for the governor to declare and terminate the emergency stage and all intermediate stages above the warning episode stage, such declarations constituting orders in accordance with applicable source emission reduction plans;

((~~(5)~~)) (f) Provisions for enforcement by state and local police, personnel of the departments of ecology and social and health services, and personnel of local air pollution control agencies; and

((~~(6)~~)) (g) Provisions for reduction or discontinuance of emissions immediately, consistent with good operating practice and safe operating procedures, under an air pollution emergency as provided in RCW 70A.15.6020.

(4) Source emission reduction plans shall be considered orders of the department and shall be subject to appeal to the pollution control hearings board according to the procedure in chapter 43.21B RCW.

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