

HOUSE BILL REPORT

HB 1028

*As Reported By House Committee on:
Environmental Affairs
Revenue*

Title: An act relating to reducing air contaminant emissions and improving air quality.

Brief Description: Making major changes to air quality laws.

Sponsor(s): Representatives Pruitt, Horn, Rust, Heavey, Anderson, Wineberry, Phillips, Wang, Sprenkle, Jones, Prentice, Fraser, Nelson, G. Fisher, Jacobsen, R. Fisher, Valle, Roland, Hine and Brekke; by request of Governor Gardner.

Brief History:

Reported by House Committee on:
Environmental Affairs, March 4, 1991, DPS;
Revenue, March 10, 1991, DPS(ENA)-A.

**HOUSE COMMITTEE ON
ENVIRONMENTAL AFFAIRS**

Majority Report: *That Substitute House Bill No. 1028 be substituted therefor, and the substitute bill do pass.* Signed by 8 members: Representatives Rust, Chair; Valle, Vice Chair; Bray; Brekke; G. Fisher; Phillips; Pruitt; and Sprenkle.

Minority Report: *Do not pass.* Signed by 4 members: Representatives Horn, Ranking Minority Member; Edmondson, Assistant Ranking Minority Member; Neher; and Van Luven.

Staff: Rick Anderson (786-7114).

Background: This past year, Congress passed the first major revisions to the Federal Clean Air Act in two decades. The 1990 federal act is very prescriptive for areas that do not meet federal air quality standards. Such "non-attainment" areas are required to implement various control strategies by specified dates or face automatic sanctions. Depending on the pollutant, these sanctions include: additional emission control programs, curtailment of new construction, and reduction in the pollutants emitted by existing industries.

The federal act also includes regulations on toxic air pollutants; specifications for fuel and vehicle emissions, provisions to reduce acid rain and global warming, research and development, civil and criminal penalties, and citizen suits.

Last year, citizens and representatives from 13 state and federal agencies independently cited air pollution as the state's top environmental problem during the governor's environment 2010 project.

Washington currently has 13 areas, located across the state, officially designated as non-attainment areas. Several other areas in the state are suspected of not meeting federal standards. The Department of Ecology estimates that three million people in the state live in areas with unhealthful levels of air contaminants.

Though individual areas differ considerably, the statewide average contribution to air pollution is approximately as follows: motor vehicles 45 percent, industrial sources 25 percent, woodstoves and fireplaces 20 percent, and outdoor burning 10 percent.

Summary of Substitute Bill:

GOALS AND PUBLIC POLICY:

A number of legislative findings and goals are established. These sections generally reflect three principles: 1) all air polluters should pay for the costs of air pollution; 2) state laws should prevent deterioration of air quality; and 3) state government should be a role model in reducing air pollution.

MOTOR VEHICLES AND FUELS:

Inspection and Maintenance (I&M) Program

The repair waiver for vehicles failing the emission inspection is increased from \$50 to \$450. Diesel-powered cars and trucks are included in the inspection program. The I&M program shall remain biennial unless the Environmental Protection Agency (EPA) requires an annual program. State agencies outside inspection boundaries will be required to annually inspect vehicle emissions if the agency has a fleet of 20 or more vehicles. A legislative task force is created to help low-income persons owning older cars with excess vehicle emissions to purchase newer, less-polluting vehicles. The section terminating the I&M program on January 1, 1993 is repealed.

Alternative Fuels

Ecology is directed to develop emission specifications for clean-fuels and clean-fuel vehicles. At least 30 percent of vehicles purchased through a state contract must be designated as a clean fuel vehicle once such vehicles are available. Beginning in 1992, the Department of Ecology (Ecology) and other state agencies are to prepare a biennial report on the effectiveness of the procurement program. The Utilities and Transportation Commission is directed to identify barriers to establishing re-fueling stations for compressed natural gas and to consider rate incentives to encourage private gas companies to invest in such re-fueling stations. Ecology may disburse matching grants to local governments to offset the costs of purchase or operation of clean fuel vehicles used for public transit.

Conformity

Transportation plans, programs, and projects must conform with state plans for the purpose of meeting and maintaining federal air quality standards. Ecology and the Department of Transportation must adopt rules to establish conformity criteria. Projects that preserve or maintain a roadway are exempt from conformity requirements.

Commute Trip Reduction Plans

By July 1, 1992, counties with a population of 150,000 or more and cities within those counties are required to submit plans to reduce commuting trips to the workplace. Any county, city, or town may voluntarily develop a commute trip reduction plan. Ecology may require areas in a federal non-attainment area to develop a plan. Plans adopted by local governments must initially require employers of 100 persons or more, or sites employing 100 persons or more, to implement a program to reduce commuter traffic. After July 1996, plans must include employers and worksites with 50 or more employees. Local plans must achieve a 15 percent reduction in peak hour traffic by January 1994, a 25 percent reduction by 1996, and a 35 percent reduction by 1998. Local plans must be consistent with guidelines developed by a state task force. A technical assistance team is created to assist local governments. The state task force must make periodic reports to the Legislature on the costs and benefits of commute trip reduction plans. The task force and technical assistance team are eligible for funds from the state air pollution control account created in this bill. Civil penalties may be assessed by local governments for employers failing to submit, modify, or implement a plan as directed by a local government.

An interagency task force is created to develop trip reduction plans for state facilities. State agencies employing 100 or more persons or those considered a major worksite must develop a program to implement the plan. The

Department of General Administration is required to submit an annual progress report to the task force by April 1, 1993, and every year thereafter.

Manufacturer Excise Taxes

An excise tax is imposed on manufacturers of cars and trucks having emissions more than 15 percent over the average level of emissions. The tax is set at \$125 except as updated for inflation.

A \$2.50 vehicle registration fee is added to all registered vehicles. The air pollution control account is created; funds from the excise tax and an additional \$2.50 registration fee are deposited into the account.

Emission Standards/Solar Cars

Ecology is directed to adopt rules implementing California vehicle emission standards if it finds that such standards will benefit the state's air quality. Ecology is directed to contract with Western Washington University to conduct research and development on solar cars and other clean fuel vehicles.

INDUSTRIAL AND COMMERCIAL SOURCES:

Ecology and local air authorities are required to issue renewable operating permits to: 1) sources required to have permits under federal law; and 2) sources in areas of poor air quality if identified by Ecology or a local air authority as a public health threat.

In non-attainment areas, new and modified sources are required to meet the LAER emission standard; existing sources are required to meet the BART emission standard. The LAER requirement applies only to those pollutants causing the area to be in non-attainment. In attainment areas, new and modified sources must meet the BACT emission standard; existing sources must meet the RACT emission standard.

For calendar years 1991 and 1992, a \$10 interim fee is imposed on sources emitting 100 or more tons of a regulated pollutant. Eight dollars will go to Ecology for developing the operating permit program; \$2 will go to local air authorities for their costs in developing the permit program. Ecology is to set fees, by rule, for its costs in implementing or overseeing the operating permit program. Local air authorities delegated the operating permit program are to set fees, by resolution, for the cost of implementing the program.

Emission reduction plans are required of all sources not subject to a permit and that emit 10 or more tons of a criteria pollutant or that emit one or more tons of a toxic pollutant. Plans must specify steps taken to reduce air emissions, however, no reductions are required. Ecology is to adopt rules for plan development. Sources failing to submit a plan are subject to civil and criminal penalties.

Ecology may require, by rule, sources to install generic technology requirements. Such rules must account for the remaining useful life of any existing control technology that an affected source has previously installed. Ecology is directed to provide information and technical assistance to help small businesses comply with the provisions of this act.

Persons guilty of violating the state clean air act or the inspection and maintenance program are subject to a fine of up to \$10,000 and the cost of investigation and prosecution, or by imprisonment of up to one year, or both fine and imprisonment. Persons who knowingly release hazardous pollutants in violation of the act, are subject to a fine of up to \$50,000 and/or imprisonment of up to five years. Civil penalties are increased from \$1,000 per day to \$10,000 per day. Other enforcement actions are specified.

OUTDOOR BURNING:

Outdoor burning is prohibited in areas: 1) that exceed federal air quality standards for pollutants emitted by outdoor burning; 2) urban growth areas; and 3) cities of 10,000 or more if the city is threatened to exceed federal standards and has a alternative disposal option readily available.

Silvicultural Burning

The Department of Natural Resources (DNR) must administer a program to reduce silvicultural slash burn emissions 20 percent by 1994, and 50 percent by 2000. Emission reductions apply to all forest lands, including those owned by the U.S. Forest Service. DNR must take actions to limit emissions if goals are not met. DNR is required to assess permit fees. Fees must be set at a level to cover permitting costs and the cost of researching alternatives to slash burning. Exemptions from permit fees are provided. DNR must require alternatives to slash burning according to a management hierarchy that identifies burning as the lowest priority. Silvicultural burns are prohibited during periods of air impairment.

Agricultural Burning

The state or local permitting authority must set fees, by rule, to cover administrative and development costs of researching alternative practices. Agricultural burning is prohibited during periods of air impairment. An advisory committee is established to identify research and development needs.

WOODSTOVES AND FIREPLACES:

New woodstoves sold after January 1, 1993 must meet an emission standard of 4.5 grams per hour for non-catalytic stoves and 2.5 grams per hour for catalytic stoves. New stoves sold after January 1, 1995 must meet an emission standard of 2.5 grams/hour for non-catalytic stoves and 1.4 grams/hour for catalytic stoves. On July 1, 1995, opacity standards are reduced from 20 percent to 10 percent. On January 1, 1992 the fee on new woodstove sales is increased from \$15 dollars to \$30 dollars. A fee of \$3 dollars per cord is assessed on wood provided to the public by the U.S. Forest Service, the Department of Natural Resources, and private forest owners. New woodstoves offered for sale must have a label comparing the level of emissions of the woodstove to emissions from gas and oil heating systems. An adequate source of heat, from other than woodstoves, is required of new and modified construction within urban growth areas. All new and used woodstoves installed in an urban growth area must be certified woodstoves. Fireplaces, except masonry fireplaces, must meet phased emission standards beginning in 1993 and 1995.

GLOBAL WARMING AND OZONE DEPLETION:

Persons repairing refrigeration systems, including automobile air conditioners, are required to collect and recycle chlorofluorocarbons (CFC's). The sale of certain CFC-containing products is prohibited, including kits for the home repair of vehicle air conditioning. Certain exemptions are provided. Ecology may not issue fines in areas where equipment to collect, recycle, or transport CFC's is not available.

MISCELLANEOUS SECTIONS:

An appropriation, representing 50 percent of the motor vehicle funds, is made from the clean air account to the clean water account.

Substitute Bill Compared to Original Bill:

Goals and Public Policy:

There are no major changes.

Motor Vehicles and Fuel:

A provision requiring inspection and maintenance fees to be collected at the time of vehicle registration is removed. A provision to assist low-income persons with high polluting vehicles to purchase less-polluting vehicles is added. A number of provisions to promote the use and distribution of compressed natural gas in vehicles are added. Commute trip reduction goals are made more stringent. Funding sources are changed substantially. The original bill funded all motor vehicle programs through taxes on new car sales. The substitute funds two-thirds of the motor vehicle programs through a fee on existing cars and one-thirds through a tax on new car sales.

Industrial and Commercial Sources:

A provision requiring operating permits for all new sources is deleted. The technology requirement for permitted sources is changed to reflect the severity of air problems within an airshed. The requirement for LAER on permitted new sources in non-attainment areas is changed to apply only to those pollutants causing the area to be in non-attainment. The determination and collection of fees is changed to allow local authorities to set the fees charged for sources under local regulation, while allowing Ecology to set fees to recover its costs.

Outdoor Burning:

There are no major changes.

Woodstoves and Fireplaces:

Future performance standards for new woodstoves are made less stringent. Future performance standards for fireplace inserts are made more stringent. A cordwood fee is assessed on public and private forest owners. Provisions are added to lessen woodsmoke problems in urban areas. A provision is added requiring performance information on new woodstoves offered for sale.

Global Warming and Ozone Depletion:

A provision is added directing Ecology not to issue fines in areas where CFC's cannot be readily collected or recycled.

Miscellaneous Sections:

A provision, directing the Office of Financial Management to transfer air funds to the clean water account (CWA) whenever the CWA drops below \$45 million, is deleted. An appropriation to the clean water account is added.

Fiscal Note: Available. Substitute requested March 8, 1991.

Appropriation: Yes.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately except for sections 602 and 603 which take effect July 1, 1992; sections 234 through 240 and 242 which take effect October 1, 1991; and sections 202 through 209 which take effect on January 1, 1993.

Testimony For: All major sources of pollution should be more stringently regulated. Programs to address air pollution should be adequately funded. The state will not meet federal air quality deadlines if the bill is less aggressive than the federal clean air act. With few exceptions, Congress intended that states should have the flexibility to tailor programs to meet individual state and local problems. Local governments should have authority to expand the boundaries of inspection and maintenance programs. Woodstove smoke causes severe problems in localized areas and should be severely restricted.

Testimony Against: Technology requirements for industrial sources will be very expensive. The bill should not go beyond the federal law in the area of technology requirements under the operating permit program. Delegated local authorities should be allowed to collect fees from the sources they regulate. Emission requirements for new woodstoves should not be more stringent until federal testing methodologies improve.

Witnesses: January 29, 1991: Marty Sangster, Washington Trucking Association (concerns); Mayor Doreen Marchione, City of Redmond and Eastside Transportation Program, (pro); Bruce Olsen, AAA (both); Larry Berdan, Washington Natural Gas (pro); Kelly Brown, Ford Motor Company - MVMA, (didn't say); Karen Vialle, Mayor of Tacoma (pro); Henry Sharpe, City of Seattle (didn't say); Chris Leman, Institute for Transportation and the Environment (didn't say); David Richardson, Seattle (pro with comments); Rick Wickman, Urban County Coalition - WSAC (pro); Scott Rutherford, University of Washington (pro); Mike Wasch, The Boeing Company (pro); and Dick Serdoz, S.W. Air Pollution Control Authority (didn't say).

January 31, 1991: Linda Tanz, Washington State Lung Association (pro); Rick Johnson, M.D., (pro); Al Haslebacher, Larry Gadya and Bob Emtman, Intermountain Grass Growers' Association (both); Stan Biles, Department of Natural Resources (pro); Rob Sandblom, M.D., Respiratory Diseases - Eastside Specialty Center (pro); Tim Lukens, Northwest Pellet Stove & Fuel Company (both); George Akers, Meridian Consolidated Ind. (both); Darlene Madenwald, Washington Environmental Council (pro); Rico Baroga, Tacoma Pierce County Health Department (pro); Kip Rumens,

Washington Wood Energy (didn't say); Bruce Wishart, Sierra Club (pro); Donna Larson, Washington CAC and President of Citizens Against Woodstove Fumes (pro with amendments); Thomas Stroud, Masonry Heater Association (didn't say); Jim Havens (WHEA); Sam Sullivan, Washington Wood Energy Association (didn't say); Craig Beals, WFPA (both); John Gorman, Simpson Timber Company (both); and Dick Serdoz, S.W. Air Pollution Control Authority (both).

February 1, 1991: Gary Smith, Independent Business Association (with concerns); Darlene Madenwald, Washington Environmental Council (pro); Bruce Wishart, Sierra Club (pro); Linda Tanz, Washington State Lung Association (pro); Kris Backes, Associated Washington Business (con); Ernie Wessman, Pacific Power & Light (con); Larry McLellan, Vanalco, Inc. (con); Dick Serdoz, S.W. Air Pollution Control Authority (both); Tom Hanson, WSDOT (pro); Bob Mickey, Autobody Craftsman Association (con); Bill Kidd, ARCO (didn't say); Dave Smukowsky, The Boeing Company (pro); and Lewellyn Mathews, Northwest Pulp & Paper Company (didn't say).

February 22, 1991: Don Bockelman, Citizens Alert (both); Robert D. Wienert, citizen from Graham, Washington (pro); Dick Serdoz, S.W. Air Pollution Control Authority (both); John Crouch, Wood Heating Alliance (yes); Bruce Wishart and Linda Tanz, Clean Air Coalition (pro); Kim Baydo, Recreational Vehicle Dealers Association (questions on bill); Llewellyn Matthews, Northwest Paper Products Association (questions on bill); Kris Backes, Associated Washington Business (questions on bill); Gordon Schmidt, USDA - Forest Service (pro); James Nolan, Puget Sound Air Pollution Control (didn't say); Gary Smith, Independent Business Association (concerns); Tim Boyd, Washington Forest Protection Association (concerns); Sam Sullivan, Washington Wood Energy Association (concerns); Jerry Whitfield, Pyro Industries and Associated Pellet Fuel Industries (concerns); Marty Sangster, Washington Trucking Association (concerns); Steve Blankenship, Ford Motor Company (pro with amendments); and Victoria Chiechi, Motor Vehicle Manufacturing Association (pro with amendments).

**HOUSE COMMITTEE ON
REVENUE**

Majority Report: The substitute bill by Committee on Environmental Affairs be substituted therefor and the substitute bill as amended by Committee on Revenue do pass. Signed by 9 members: Representatives Wang, Chair; Fraser, Vice Chair; Appelwick; Belcher; Day; Leonard; Morris; Phillips; and Rust.

Minority Report: Do not pass. Signed by 6 members: Representatives Holland, Ranking Minority Member; Wynne, Assistant Ranking Minority Member; Brumsickle; Morton; Silver; and Van Luven.

Staff: Robin Appleford (786-7093).

Summary of Recommendation of Committee on Revenue Compared to Recommendation of Committee on Environmental Affairs:

The superintendent of public instruction is to conduct a study on the feasibility of using compressed natural gas as a school bus fuel. The Legislature rather than the Department of Ecology and local air authorities is to set the level of fees charged to industrial sources for the costs of the operating permit program. A science advisory board is created to recommend methods to evaluate the risks associated with toxic air pollutants. The Department of Natural Resources may use the best available model for tracking progress toward emission reduction goals if the Pacific Northwest Research Station's model is not available.

Major employers are allowed greater flexibility in collecting information from employees in implementing the Transportation Demand Management Program. The Commute Trip Reduction Task Force must consider progress made by employers in reducing commute trips before implementing the commute trip reduction program.

The Department of Natural Resources may not spend money raised by slash burn permit fees on research into alternatives to burning. DNR is to encourage, not require, forest landowners to follow a management hierarchy that establishes burning as the least desirable option for managing slash. The \$3 fee on cordwood permits is deleted. The new clean air and water fee is moved from the vehicle licensing statutes to the motor vehicle excise tax statutes.

Technical changes are made to the section transferring money from the air account to the water quality account to accomplish the bill's intent. References to the disposition of interest earned on the account are deleted.

Fiscal Note: Available. Requested for substitute, March 8, 1991.

Appropriation: Yes.

Effective Date of Substitute Bill as Amended: The bill contains an emergency clause and takes effect immediately except for sections 602 and 603 which take effect July 1, 1992; sections 229 through 235 and 245 which take effect

October 1, 1991; and sections 202 through 209 which take effect on January 1, 1993.

Testimony For: The bill addresses major air pollution issues and funds needed programs appropriately. Having fees based on pollution sources is a good concept. The bill encourages waste reduction as well. There is a proven relationship between pollution from motor vehicles and water quality, and this bill provides funding for both. The bill provides incentives for fuel efficient cars. Accountability for industrial permit fees is needed. The annual motor vehicle fee of \$2.50 per car is reasonable. Transportation demand management is a good way to control pollution from cars.

Testimony Against: Woodstove regulations were revised last session. Changing woodstove regulation at this time is a disincentive for people to buy new, cleaner stoves. The fee schedule for slash burn fees should be more reasonable, and fees should not be spent on research for alternatives to burning. An excise tax on new cars is counter-productive, since old cars are the problem. The gas guzzler tax preempts federal law and is not enforceable.

Witnesses: Steve Sheldon, Olympia Fireplace Supply (con); Llewellyn Matthews, Northwest Pulp & Paper Association; Nels Hanson, Washington Farm Forestry Association (con); Robert G. Johnston, METRO (con); Sam Sullivan, Washington Wood Energy Association (con); Gary Smith, Independent Business Association (concerns); Kris Backes, AWB (pro with amendments); Mary Murphy and Bruce Wishart, Clean Air Coalition (pro); Vicki Chiechi, Motor Vehicle Manufacture Association (amendment); Steve Blankenship, Ford Motor Company (amendment); Jim Boldt, Auto Dealers Association (amendment); Tim Boyd, Washington Forest Protection Association (amendment); Kathleen Collins, AWC (pro); and Ed Thorpe, Coalition for Clean Water (pro).