

# HOUSE BILL REPORT

## ESHB 2479

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**As Passed House:**  
February 13, 2004

**Title:** An act relating to setting pm 2.5 burn ban triggers and enforcement.

**Brief Description:** Concerning burn bans for solid fuel burning devices.

**Sponsors:** By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Kagi, Hinkle, Cooper and Upthegrove).

**Brief History:**

**Committee Activity:**

Fisheries, Ecology & Parks: 1/22/04, 2/5/04 [DPS].

**Floor Activity:**

Passed House: 2/13/04, 63-33.

**Brief Summary of Engrossed Substitute Bill**

- Changes the size of particulates measured when determining if restrictions on the use of solid fuel burning devices should be instituted.
- Makes it unlawful for visible emissions from a solid fuel burning device to enter a neighboring property in a wood smoke concentration area.

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### HOUSE COMMITTEE ON FISHERIES, ECOLOGY & PARKS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Cooper, Chair; Upthegrove, Vice Chair; Hinkle, Assistant Ranking Minority Member; Buck, O'Brien and Simpson, D..

**Minority Report:** Do not pass. Signed by 3 members: Representatives Sump, Ranking Minority Member; Hatfield and Pearson.

**Staff:** Jason Callahan (786-7117).

**Background:**

The Washington Clean Air Act (Act) regulates the use of wood stoves, fireplaces, and other solid fuel burning devices. The Act prohibits the sale of solid fuel burning devices that do not meet certain defined standards. Use of uncertified burning devices, which are those devices that do not meet these standards, may generally continue if the device was purchased prior to the sales prohibition.

The Act also establishes a two-phase burn ban. During a first stage burn ban, residential and commercial buildings are prohibited from burning wood in any stove or fireplace that is not certified. During a second phase burn ban, all buildings are prohibited from burning wood in both certified and uncertified solid fuel burning devices. Buildings that do not have an adequate source of heat without burning wood are allowed to burn wood during both first and second phase burn bans.

Both the Department of Ecology (Department) and local air agencies have the authority to declare first and second stage impaired air episodes. There are two triggers for a first stage impaired air episode. The first trigger is the measurement of particulates in the air that are ten microns or smaller in diameter at an average concentration of 60 micrograms per cubic meter over 24 hours. A first stage episode can also be triggered if carbon monoxide is measured at an average ambient level concentration of eight parts per million over an eight- hour period. A second stage impaired air quality episode is triggered when the 24 hour average concentration for particulates that are ten microns or smaller in diameter reach a concentration of 105 micrograms per cubic meter.

Complaints about a solid fuel burning device may be enforced if a device has an opacity level of 20 percent. A solid fuel burning device's opacity is expressed as a percentage, and measures the transparency of the device's smoke plume. The Department is directed to educate the public based on a 10 percent opacity.

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## **Summary of Engrossed Substitute Bill:**

### First Stage Burn Bans

The triggers for establishing a first and second stage burn ban are altered. The formula for declaring a first stage ban is changed from measuring particulates sized 10 microns or smaller at a concentration of greater than 60 micrograms per cubic meter, to measuring particulates with a diameter of 2.5 microns or smaller at a concentration of 35 micrograms per cubic meter. In addition to measuring the necessary concentration of 2.5 micron particulates, a first stage burn ban can not be called unless the meteorological forecast predicts that the conditions for the following 48 hours will not allow the levels of fine particulates to decline below the necessary trigger level.

The carbon monoxide standard for allowing a first stage burn ban is removed. Only the fine particulate measurements can trigger a burn ban.

### Second Stage Burn Bans

The formula for declaring a second stage ban is changed from measuring particulates sized 10 microns or smaller at a concentration of greater than 105 micrograms per cubic meter, to measuring particulates with a diameter of 2.5 microns or smaller at a concentration of 60 micrograms per cubic meter. In addition to the measurement of fine particulates, a second stage burn ban can not be given effect unless a first stage burn ban has been in force and

proven insufficient to reduce the rate of increase in the concentration of fine particulates in the air. Also, the meteorological forecast must predict that the conditions for the following 48 hours will not allow the levels of fine particulates to decline below the necessary trigger level

### Chimney Opacity

In addition to the statewide opacity level of 20 percent, it is unlawful for emissions from a solid fuel burning device to visibly enter that portion of a neighboring property that immediately surrounds a house, if that property is located in a wood smoke concentration area. These areas are neighborhoods with historic problems with high wood smoke concentrations, and can only be identified by a multi-county clean air agency that has within its borders a county of greater than 500,000 residents. The only exception is for emissions entering a neighboring property that is composed solely of uncombined water vapor. This restriction is applicable regardless of the existing air quality designation.

Three hours after an impaired air quality episode or period is declared, visible emissions from a chimney will be considered prima facie evidence that a solid fuel burning device is being used unlawfully. The only exception is for visible uncombined water vapor.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (Original Bill) High density neighborhoods can have severe air quality degradation due to the use of wood stoves during certain weather periods. High wood smoke levels can cause immediate and apparent effects on those with respiratory disease, and long-term effects on the heart and lungs.

The current burn bans do help air quality; however, enforcement is lacking due to the high opacity level that is permitted for chimney smoke. The enforcement language in the bill has been borrowed from Phoenix, Arizona, where it has worked well without a lot of unfounded complaints. This language would stop those who burn unlawful substances in their stoves, such as garbage.

The bill would allow a local clean air agency to not call a burn ban if a storm is forecasted to change the weather conditions. This will help avoid a high number of short-duration burn bans. The bill would also only effect urban areas, and would not be enforced outside of an urban growth area.

Washington has been a national model for the rights of its citizens to use wood heat while co-existing with air quality standards. This bill is the next step in that direction. The particulate size needs to be changed to reflect changes in federal regulations.

**Testimony Against:** None.

**Persons Testifying:** Representative Kagi, prime sponsor; James Nolan and Mike Ryherd, Puget Sound Clean Air Agency; Gary Smith, Independent Business Association; and Dick Sowell, Olympia Fireplace and Northwest Hearth Patio and Barbeque Association.

**Persons Signed In To Testify But Not Testifying:** None.