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**Fisheries, Ecology & Parks  
Committee**

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**HB 3002**

**Brief Description:** Authorizing statewide regulation of outdoor burning.

**Sponsors:** Representatives Cooper, Lovick, Romero and Chase; by request of Washington State Patrol.

**Brief Summary of Bill**

- Permits the Governor to enact a temporary statewide ban on outdoor burning during an extreme fire hazard.
- Assigns criminal and civil penalties for violations of a temporary statewide burn ban.

**Hearing Date:** 2/5/04

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

**Background:**

Outdoor burning, or the combustion of material in an open fire without providing for emissions control, is permitted in many areas of the state. Specifically, one is permitted to burn if the activity does not occur in area where the federal or state ambient air quality limits are exceeded for the pollutants associated with outdoor burning [RCW 70.94.743(1)(a)]. In addition, outdoor burning is permitted in any area except within the urban growth boundary of any city with a population of more than 5,000 residents, regardless of air current air quality, as well as any city located within or contiguous to any area that has been identified as having a history of poor air quality. [RCW 70.94.743(1)(b)].

There are certain circumstances when outdoor burning is allowed in areas where the activity is otherwise prohibited. These circumstances include the burning of storm or flood-related debris [RCW 70.94.743(1)(c)], and certain agricultural burning [RCW 70.94.743(1)(d)]. A person located in the urban growth area of a city with a population greater than 5,000 residents may still conduct agricultural burning if that burning is normal, necessary, and customary to ongoing agricultural activities, and not conducted during a period of impaired air quality.

**Summary of Bill:**

Temporary Prohibition on Outdoor Burning

The Governor is given express authority to issue an executive order that prohibits all outdoor burning either throughout the state, or within specific portions of the state. An executive order prohibiting outdoor burning may only be issued if the Governor receives a recommendation to do so from the state fire marshal. Outdoor burning is defined as the combustion of material in an open fire or outdoor container without providing for the control or combustion of the emissions. The state fire marshal may recommend a prohibition on outdoor burning if he or she finds that extreme fire hazards exist and that state resources may be in danger, or that there is a threat to life and property. The state fire marshal is required to consult with the Commission of Public Lands, the Department of Ecology, the Department of Agriculture, and the State Parks prior to making a recommendation to the Governor.

The executive order issued by the Governor would be applicable to both state and private lands, and would remain in effect until rescinded by the Governor. The executive order could allow for some burning if the specific exemptions did not unduly endanger state resources or the protection of life and property.

#### Penalties and Enforcement

Both intentional and negligent violations of an gubernatorial executive order are enforceable by any general or limited authority peace officer, or by a local fire authority. Intentional violations are punishable as a gross misdemeanor (up to one year in jail and a fine of up to \$5000), and negligent violations are punishable as a class 1 civil infraction (up to \$250 fine).

In addition, any person injured because of a violation of an executive order will have a valid cause of civil action against the party unlawfully engaging in outdoor burning. If found liable, the violating party can be held responsible for actual damages, reasonable attorneys' fees, court costs, and costs incurred while investigating the incident.

**Appropriation:** None.

**Fiscal Note:** Available.

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