

# SENATE BILL REPORT

## SB 5658

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As of February 9, 2017

**Title:** An act relating to the use of solid fuel burning devices.

**Brief Description:** Concerning the use of solid fuel burning devices.

**Sponsors:** Senator Pearson.

**Brief History:**

**Committee Activity:** Energy, Environment & Telecommunications: 2/09/17.

**Brief Summary of Bill**

- Requires the Department of Ecology or the local air agency to lift burn bans when the air temperature falls below 32 degrees.
- Revises penalties for violations of burn bans.

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### SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

**Staff:** Jan Odano (786-7486)

**Background:** Under the federal Clean Air Act, the U.S. Environmental Protection Agency (EPA) establishes national air quality standards, which are pollution limits for criteria pollutants of concern to public health and the environment. The EPA uses the following pollutants as indicators of air quality: carbon monoxide, lead, nitrogen dioxide, particulate matter 10 (PM10), particulate matter 2.5 (PM2.5), ozone, and sulfur oxides.

A local air agency or the Department of Ecology (Ecology) may call a burn ban when it determines that the air quality is impaired or that the forecast for fine particulates will fail to meet national standards. The local air authority and Ecology are solely responsible for enforcing burn bans. Cities, counties, and local health jurisdictions must cooperate with the local air authority or Ecology to implement burn bans, except with enforcement.

A first-stage of impaired air quality is when the fine particulates exceed 35 micrograms per cubic meter for 24 hours, within 48 hours. Persons with an adequate source of heat are prohibited from using any uncertified wood-heating devices during a first-stage burn ban.

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The second-stage of impaired air quality occurs when a first-stage burn ban has not been sufficient to reduce increasing fine particulates. Second-stage impaired air quality occurs when fine particulates are at 25 micrograms per cubic meter for 24 hours, and conditions are not expected to improve for at least 24 hours or will worsen within 24 hours.

A second-stage burn ban may be called without calling a first-stage burn ban when fine particulates have exceeded 25 micrograms per cubic meter on a 24-hour average; meteorological conditions have caused levels to rise rapidly; meteorological conditions are predicted to cause fine particulate levels to reach or exceed 35 micrograms per cubic meter measured on a 24-hour average within 24 hours; and meteorological conditions are highly likely to prevent sufficient dispersion of fine particulates. When a second-stage burn ban is called, persons with an adequate source of heat are prohibited from using any wood heating-devices.

In areas of nonattainment for fine particulates, Ecology or a local air agency may prohibit the use of solid fuel burning devices except fireplaces, certified solid fuel burning devices, and pellet stoves where the emissions from wood smoke are a major contributing factor; and the area has a program that assists low-income households to secure an adequate source of heat.

A person in violation of the state Clean Air Act is subject to a penalty not to exceed \$10,000 per day per violation.

**Summary of Bill:** Ecology or the local air agency must lift burn bans when the air temperature falls below 32 degrees and is predicted to remain below 32 degrees for 48 hours. The burn ban may be reinstated when the air temperature rises above 32 degrees for six hours.

For the first violation of a burn ban, Ecology or the local air agency must provide the person with 12 hours notice before taking an enforcement action, educational materials regarding public health and air quality, and information about obtaining a certified wood stove to person who is in violation of a burn ban. For the second violation, the person is subject to a \$250 penalty, and each subsequent violation is an additional \$250.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: It takes a number of hours to comply once a notice has been issued. If the ban has been determined during the middle of the day, two-hour notice is not enough. This is unfair to the town and citizen if they have to immediately comply to get the fires to recess. The intention is to get a reasonable law into effect. Maybe more training is needed. This is hurting a lot of poor folks.

CON: If a wood stove is your only source of heat, you can burn. But if you have alternate source of heat, we ask you to use that while the burn ban is in effect. Wood smoke is a source of air pollution that has significant health effects. It is especially a concern for those with the heart and lung diseases, the elderly and young. We don't have many days that burn bans are in effect. It is an inconvenience and can be expensive to home owner, but has a huge effect for protecting public health and the economy. We cannot enforce a burn ban until 3 hours after it comes into effect. We only call a burn ban when it warranted. In the Darrington area, three notices of violations we issued, two for excess smoke and one for a burn ban violation. No civil penalties were collected. Non-attainment of the state's clean air state implementation plan is bad for the economy. The burn bans are based on rigorous standard and this moves away from the scientific standards. These changes have implications for state implementation plans, which allows the state to maintain its rules and not EPA. If we violate the federal standard, we might have to do more enforcement.

**Persons Testifying:** PRO: Senator Kirk Pearson, Prime Sponsor.

CON: Craig Kenworthy, Puget Sound Clean Air Agency; Stuart Clark, Dept of Ecology; Uri Papish, Southwest Clean Air Agency / Executive Director.

**Persons Signed In To Testify But Not Testifying:** No one.