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**SENATE BILL 5697**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senators Cleveland, Darneille, and Nguyen; by request of Department of Ecology

AN ACT Relating to the sale and installation of solid fuel burning devices; and amending RCW 70.94.455, 70.94.457, and 70.94.483.

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

**Sec.**  RCW 70.94.455 and 1991 c 199 s 503 are each amended to read as follows:

((~~After January 1, 1992,~~)) (1) No ((~~used~~)) solid fuel burning device shall be offered for sale or installed in new or existing buildings unless such device is ((~~either Oregon department of environmental quality phase II or United States environmental protection agency~~)) certified ((~~or a pellet stove either certified or exempt from certification by the United States environmental protection agency~~)) to statewide emission performance standards under RCW 70.94.457.

((~~(1) By July 1, 1992,~~)) (2) The state building code council shall adopt rules requiring an adequate source of heat other than woodstoves in all new and substantially remodeled residential and commercial construction. This rule shall apply (a) to areas designated by a county to be an urban growth area under chapter 36.70A RCW; and (b) to areas designated by the environmental protection agency as being in nonattainment for particulate matter.

((~~(2)~~)) (3) For purposes of this section, "substantially remodeled" means any alteration or restoration of a building exceeding sixty percent of the appraised value of such building within a twelve-month period.

**Sec.**  RCW 70.94.457 and 1995 c 205 s 3 are each amended to read as follows:

The department of ecology shall establish by rule under chapter 34.05 RCW:

(1) Statewide emission performance standards for new solid fuel burning devices. Notwithstanding any other provision of this chapter which allows an authority to adopt more stringent emission standards, no authority shall adopt any emission standard for new solid fuel burning devices other than the statewide standard adopted by the department under this section.

(a) After January 1, 1995, no solid fuel burning device shall be offered for sale in this state to residents of this state that does not meet the following particulate air contaminant emission standards under the test methodology of the United States environmental protection agency in effect on January 1, 1991, or an equivalent standard under any test methodology adopted by the United States environmental protection agency subsequent to such date: (i) Two and one-half grams per hour for catalytic woodstoves; and (ii) four and one-half grams per hour for all other solid fuel burning devices. For purposes of this subsection, "equivalent" shall mean the emissions limits specified in this subsection multiplied by a statistically reliable conversion factor determined by the department that compares the difference between the emission test methodology established by the United States environmental protection agency prior to May 15, 1991, with the test methodology adopted subsequently by the agency. ((~~Subsection (a) of~~)) This subsection (1)(a) does not apply to fireplaces.

(b) ((~~After January 1, 1997,~~)) After January 1, 2021, no solid fuel burning device shall be offered for sale in this state to residents of this state that does not meet the following particulate air contaminant emission standard under the test methodology of the United States environmental protection agency in effect on the effective date of this section, or any test methodology adopted by the department or the United States environmental protection agency subsequent to such date: Two grams per hour for all solid fuel burning devices. This subsection (1)(b) does not apply to fireplaces.

(c) No fireplace, except masonry fireplaces, shall be offered for sale unless such fireplace meets the ((~~1990~~)) United States environmental protection agency standards for woodstoves in effect on the effective date of this section or equivalent standard that may be established by the state building code council by rule. ((~~Prior to January 1, 1997,~~)) The state building code council shall establish by rule a methodology for the testing of factory-built fireplaces. The methodology shall be designed to achieve a particulate air emission standard equivalent to the ((~~1990~~)) United States environmental protection agency standard for woodstoves in effect on the effective date of this section. In developing the rules, the council shall include on the technical advisory committee at least one representative from the masonry fireplace builders and at least one representative of the factory-built fireplace manufacturers.

((~~(c)~~)) (d) Prior to January 1, 1997, the state building code council shall establish by rule design standards for the construction of new masonry fireplaces in Washington state. In developing the rules, the council shall include on the technical advisory committee at least one representative from the masonry fireplace builders and at least one representative of the factory-built fireplace manufacturers. It shall be the goal of the council to develop design standards that generally achieve reductions in particulate air contaminant emissions commensurate with the reductions being achieved by factory-built fireplaces at the time the standard is established.

((~~(d)~~)) (e) Actions of the department and local air pollution control authorities under this section shall preempt actions of other state agencies and local governments for the purposes of controlling air pollution from solid fuel burning devices, except where authorized by chapter 199, Laws of 1991.

((~~(e) Subsection (1)(a) of this section shall not apply to fireplaces.~~))

(f) Notwithstanding (a) of this subsection, the department is authorized to adopt, by rule, emission standards adopted by the United States environmental protection agency for new woodstoves sold at retail. For solid fuel burning devices for which the United States environmental protection agency has not established emission standards, the department may exempt or establish, by rule, statewide standards including emission levels and test procedures for such devices and such emission levels and test procedures shall be equivalent to emission levels per pound per hour burned for other new woodstoves and fireplaces regulated under this subsection.

(2) A program to:

(a) Determine whether a new solid fuel burning device complies with the statewide emission performance standards established in subsection (1) of this section; and

(b) Approve the sale of devices that comply with the statewide emission performance standards.

**Sec.**  RCW 70.94.483 and 2003 1st sp.s. c 25 s 932 are each amended to read as follows:

(1) The woodstove education and enforcement account is hereby created in the state treasury. Money placed in the account shall include all money received under subsection (2) of this section and any other money appropriated by the legislature. Money in the account shall be spent for the purposes of the woodstove education program established under RCW 70.94.480 and for enforcement of the woodstove program, and shall be subject to legislative appropriation. ((~~However, during the 2003-05 fiscal biennium, the legislature may transfer from the woodstove education and enforcement account to the air pollution control account such amounts as specified in the omnibus operating budget bill.~~)) The department may adopt by rule a process to distribute the money in the account for the purposes of woodstove education and enforcement.

(2) ((~~The department of ecology, with the advice of the advisory committee, shall set~~)) A flat fee of ((~~thirty~~)) fifty dollars((~~,~~)) must be assessed on the retail sale, as defined in RCW 82.04.050, of each solid fuel burning device ((~~after January 1, 1992~~)). The fee shall be imposed upon the consumer and shall not be subject to the retail sales tax provisions of chapters 82.08 and 82.12 RCW. ((~~The fee may be adjusted annually above thirty dollars to account for inflation as determined by the state office of the economic and revenue forecast council.~~)) Beginning January 1, 2021, and each January 1st thereafter, this fee must be increased by the fiscal growth factor approved for the concurrent fiscal year in accordance with chapter 43.135 RCW. The fee must be rounded to the nearest whole dollar. The fee shall be collected by the department of revenue in conjunction with the retail sales tax under chapter 82.08 RCW. If the seller fails to collect the fee herein imposed or fails to remit the fee to the department of revenue in the manner prescribed in chapter 82.08 RCW, the seller shall be personally liable to the state for the amount of the fee. The collection provisions of chapter 82.32 RCW shall apply. The department of revenue shall deposit fees collected under this section in the woodstove education and enforcement account.

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