

# HOUSE BILL REPORT

## SSB 6121

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**As Passed House:**

March 1, 2024

**Title:** An act relating to agricultural and forestry biomass.

**Brief Description:** Concerning agricultural and forestry biomass.

**Sponsors:** Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Van De Wege, Nobles and Randall).

**Brief History:**

**Committee Activity:**

Environment & Energy: 2/19/24, 2/20/24 [DP];

Appropriations: 2/23/24, 2/26/24 [DP].

**Floor Activity:**

Passed House: 3/1/24, 96-0.

**Brief Summary of Substitute Bill**

- Includes the combustion of natural vegetation in portable flame cap kilns as an activity for which certain agencies may permit agricultural or silvicultural burning, subject to certain limitations.
- Defines flame cap kiln in the Washington Clean Air Act as an outdoor container used for the combustion of natural vegetation from silvicultural or agricultural activities meeting certain structural and size requirements.

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### HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

**Majority Report:** Do pass. Signed by 15 members: Representatives Doglio, Chair; Mena, Vice Chair; Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno, Barnard, Berry, Duerr, Fey, Goehner, Lekanoff, Ramel, Sandlin, Slatter and Street.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Robert Hatfield (786-7117).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 28 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Corry, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Connors, Assistant Ranking Minority Member; Couture, Assistant Ranking Minority Member; Berg, Callan, Chopp, Davis, Fitzgibbon, Harris, Lekanoff, Pollet, Riccelli, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Stokesbary, Stonier, Tharinger and Wilcox.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Macri, Vice Chair.

**Staff:** Dan Jones (786-7118).

### **Background:**

#### Washington Clean Air Act.

Under the Washington Clean Air Act (Act), outdoor burning is generally prohibited in any area of the state where federal or state air quality standards are exceeded for pollutants from outdoor burning, in urban growth areas, or in certain large cities threatening to exceed state or federal air quality standards. Outdoor burning means the burning of material in an open fire or an outdoor container without controlling the fire or emissions.

Restrictions on outdoor burning do not apply to silvicultural burning to improve or maintain fire-dependent ecosystems for rare plants or animals. Outdoor burning may be allowed in the following instances:

- for the exclusive purpose of managing storm- or flood-related debris; and
- when normal, necessary, and customary to ongoing agricultural activities if:
  1. the burn is not conducted during air quality episodes and an impaired air quality determination; and
  2. the agricultural activities preceded the designation as an urban growth area.

#### Outdoor Burning Permits.

The Department of Natural Resources (DNR), the Department of Ecology (Ecology), and certain political subdivisions such as counties, conservation districts, fire protection authorities, and local air authorities, may issue permits under the Act for a variety of outdoor burning activities in their respective jurisdictions, including agricultural burning and silvicultural burning. In general, permit fees for agricultural burning are set by the permitting agency, in consultation with a task force, subject to certain maximum fees for field and pile burning.

The DNR is responsible for issuing and regulating permits and associated fees for certain burning activities on lands under its fire protection authority to: (1) abate and prevent fire hazards; (2) facilitate forest firefighting instruction; and (3) enable burning operations to improve fire-dependent ecosystems and otherwise improve state forestlands. The DNR must encourage more intense utilization in logging and alternative silviculture practices to reduce the need for burning, and encourage landowners to develop and use alternative acceptable disposal methods subject to the following priorities:

- slash production minimization;
- slash utilization;
- nonburning disposal; and
- silvicultural burning.

### **Summary of Bill:**

#### Outdoor Burning Permits.

For the purpose of the agricultural burning activities for which a person must obtain an agricultural burning permit, agricultural burning includes the combustion of natural vegetation from agricultural activities in portable flame cap kilns, provided that the biomass does not contain any prohibited materials, such as garbage, dead animals, petroleum products, or other specified substances.

The Department of Natural Resources (DNR) may assess permit fees for the combustion of natural vegetation from silvicultural activities in portable flame cap kilns.

The use of portable flame cap kilns is added to the list of priorities that the DNR must encourage landowners to develop and use in logging and alternative silviculture practices in order to reduce the need for burning.

#### Definitions.

A flame cap kiln is defined to mean an outdoor container used for the combustion of natural vegetation from silvicultural or agricultural activities that meets the following requirements:

- has a solid or sealed bottom including, but not limited to, mineral soils, so that all air for combustion comes from above;
- is completely open on top with no restrictions;
- is a shallow container where the width is greater than the height; and
- has a volume of 10 cubic meters or less.

The definition of silvicultural burning is amended to include the combustion of natural vegetation from silvicultural activities.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony (Environment & Energy):**

(In support) There is a lot of pruning and limbing done for fire safety and forest health, which produces tons and tons of biomass. Flame cap kilns are a great way to address this biomass. There are almost no emissions, almost no smoke, and they produce biochar, which is an amazing soil amendment. Biochar helps improve water retention and nutrient retention.

Using flame cap kilns for agricultural and silvicultural burning promotes economic growth in rural communities. The use of flame cap kilns converts hazardous fuels to carbon rich biochar, reduces the significant costs associated with forest firefighting, creates jobs, and stimulates economic growth in rural areas. Flame cap kiln burning to produce biochar provides an opportunity for meaningful, healthy work for veterans and others.

In order to realize the benefits of biochar production, including providing growers with biochar enhanced compost and integrating biochar into larger natural climate solutions, there needs to be an appropriate regulatory framework, which this bill provides.

(Opposed) None.

**Staff Summary of Public Testimony (Appropriations):**

(In support) Pruning and thinning are both necessary activities to reduce the risk of wildfire and improve forest health, but they also produce a significant amount of woody biomass. Portable flame cap kilns are an excellent alternative to traditional outdoor burning, both because they produce much lower emissions and because they produce biochar. Biochar increases soil health and soil moisture retention.

Wildfires have had a dramatic effect on the western landscape. The use of flame cap kilns is an effective means of reducing wildfire risk by burning silvicultural waste. Biochar aids in sequestering carbon.

(Opposed) None.

**Persons Testifying (Environment & Energy):** Howard Sharfstein, Kulshan Carbon Trust; Jake Dailey, United States Rake Force; and Korina Stark.

**Persons Testifying (Appropriations):** Jake Dailey, United States Rake Force; and Korina Stark.

**Persons Signed In To Testify But Not Testifying (Environment & Energy):** None.

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