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**SENATE BILL 5174**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senator Shewmake; by request of Department of Ecology

AN ACT Relating to wood burning devices; amending RCW 70A.15.3520, 70A.15.3530, 70A.15.3540, 70A.15.3550, 70A.15.3580, and 70A.15.3600; and reenacting and amending RCW 70A.15.3510.

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

**Sec.**  RCW 70A.15.3510 and 2020 c 20 s 1115 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 70A.15.3510 through 70A.15.3620:

(1) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(2) "Department" means the department of ecology.

(3) "Fireplace" means: (a) Any permanently installed masonry fireplace; or (b) any factory-built metal ((~~solid fuel~~)) wood burning device designed to be used with an open combustion chamber and without features to control the air to fuel ratio.

(4) "New woodstove" means: (a) A woodstove that is sold at retail, bargained, exchanged, or given away for the first time by the manufacturer, the manufacturer's dealer or agency, or a retailer; and (b) has not been so used to have become what is commonly known as "secondhand" within the ordinary meaning of that term.

(5) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage. The methods ((~~approved~~)) adopted by the department in accordance with RCW 70A.15.3000 shall be used to establish opacity for the purposes of this chapter.

(6) "Residential forced-air furnace" has the same meaning as set forth in 40 C.F.R. Part 60, subpart QQQQ (2025).

(7) "Residential hydronic heater" has the same meaning as set forth in 40 C.F.R. Part 60, subpart QQQQ (2025).

(8) "((~~Solid fuel~~)) Wood burning device" means any device for burning wood((~~, coal, or any other nongaseous and nonliquid fuel, including a woodstove and fireplace~~)) or pellet fuel, including a woodstove, fireplace, masonry heater, residential forced-air furnace, and residential hydronic heater.

((~~(7)~~)) (9) "Woodstove" means a ((~~solid fuel~~)) wood burning device ((~~other than a fireplace not meeting the requirements of RCW 70A.15.3530~~)), including any fireplace insert, ((~~woodstove, wood burning heater~~)) pellet stove, wood stick boiler, ((~~coal-fired furnace, coal stove,~~)) or similar device burning any ((~~solid~~)) wood or pellet fuel, used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour. The term "woodstove" does not include ((~~wood cook stoves~~)) fireplaces, masonry heaters, residential forced-air furnaces, or residential hydronic heaters. For purposes of this chapter, the term "woodstove" includes any residential wood heater as defined in 40 C.F.R. Part 60, Subpart AAA (2025).

**Sec.**  RCW 70A.15.3520 and 1991 c 199 s 503 are each amended to read as follows:

((~~After January 1, 1992, no used solid fuel~~)) No wood burning device shall be 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~~)) meets the applicable emission standard and certification requirements adopted by the department under this section. The department may adopt by rule additional certification procedures for wood burning devices to ensure compliance with the adopted emission standard. The department may also adopt by rule emission standards and other requirements for residential home heating devices burning solid fuels other than wood or pellet fuel, including devices burning coal and other nongaseous and nonliquid fuels.

(1) By July 1, 1992, 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) For purposes of this section, "substantially remodeled" means any alteration or restoration of a building exceeding ((~~sixty~~)) 60 percent of the appraised value of such building within a ((~~twelve-month~~)) 12-month period.

**Sec.**  RCW 70A.15.3530 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~~)) wood burning devices. The department may adopt rules to implement the federal emission standards for new residential wood heaters in 40 C.F.R. Part 60, subpart AAA (2025), and to implement the federal emission standards for new residential forced-air furnaces and new residential hydronic heaters in 40 C.F.R. Part 60, subpart QQQQ (2025). The department may also adopt rules to establish and implement emission standards for masonry heaters, which may include incorporation of federal emission standards adopted by the United States environmental protection agency. If the department adopts rules as authorized in this section, the department shall adopt the emission performance standards as they exist on January 1, 2025. The department may amend the rules from time to time to maintain consistency with the emission performance standards adopted by the United States environmental protection agency unless the department finds that the requirements adopted by the United States environmental protection agency are less stringent than those in effect under this section or that the changes would adversely impact air quality. The department may adopt by rule a sell-through provision allowing retailers to sell United States environmental protection agency-certified wood burning devices in their inventory for up to 12 months after a device is removed from the department's certification list. 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~~)) wood burning devices other than the statewide standard adopted by the department under this section.

(a) ((~~After January 1, 1995, no solid fuel~~)) No wood 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 does not apply to fireplaces~~)) statewide emission performance standards adopted by the department under this section, using an applicable test methodology adopted by the United States environmental protection agency.

(b) After January 1, 1997, no fireplace, except masonry fireplaces, shall be offered for sale unless such fireplace meets the 1990 United States environmental protection agency standards for woodstoves 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 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) 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) 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~~)) wood 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~~)) wood 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~~)) wood burning device complies with the statewide emission performance standards ((~~established in~~)) and certification requirements adopted under subsection (1) of this section; and

(b) ((~~Approve the sale~~)) Publish a list of devices that comply with the statewide emission performance standards and certification requirements.

**Sec.**  RCW 70A.15.3540 and 2020 c 20 s 1116 are each amended to read as follows:

((~~After July 1, 1988, no~~)) No person shall sell, offer to sell, or knowingly advertise to sell a ((~~new woodstove~~)) wood burning device in this state to a resident of this state unless the ((~~woodstove has been approved by the department under the program established~~)) wood burning device meets the applicable emission standard and certification requirements adopted by the department under RCW 70A.15.3530.

**Sec.**  RCW 70A.15.3550 and 2020 c 20 s 1117 are each amended to read as follows:

((~~After July 1, 1988, any~~)) Any person who sells, offers to sell, or knowingly advertises to sell a ((~~new woodstove~~)) wood burning device in this state in violation of RCW 70A.15.3540 shall be subject to the penalties and enforcement actions under this chapter.

**Sec.**  RCW 70A.15.3580 and 2020 c 20 s 1119 are each amended to read as follows:

(1) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

(a) Not burn wood in any ((~~solid fuel~~)) wood burning device whenever the department has determined under RCW 70A.15.6010 that any air pollution episode exists in that area;

(b) Not burn wood in any ((~~solid fuel~~)) wood burning device except those which are ((~~either Oregon department of environmental quality phase II or United States environmental protection agency certified or~~)) certified by the department under RCW 70A.15.3530(1) ((~~or a pellet stove either certified or issued an exemption by the United States environmental protection agency in accordance with Title 40, Part 60 of the Code of Federal Regulations~~)), in the geographical area and for the period of time that a first stage of impaired air quality has been determined, by the department or any authority, for that area.

(i) A first stage of impaired air quality is reached when forecasted meteorological conditions are predicted to cause fine particulate levels to exceed ((~~thirty-five~~)) 35 micrograms per cubic meter, measured on a ((~~twenty-four~~)) 24-hour average, within ((~~forty-eight~~)) 48 hours, except for areas of fine particulate nonattainment or areas at risk for fine particulate nonattainment;

(ii) A first stage burn ban for impaired air quality may be called for a county containing fine particulate nonattainment areas or areas at risk for fine particulate nonattainment, and when feasible only for the necessary portions of the county, when forecasted meteorological conditions are predicted to cause fine particulate levels to reach or exceed ((~~thirty~~)) 30 micrograms per cubic meter, measured on a ((~~twenty-four~~)) 24-hour average, within ((~~seventy-two~~)) 72 hours; and

(c)(i) Not burn wood in any ((~~solid fuel~~)) wood burning device in a geographical area and for the period of time that a second stage of impaired air quality has been determined by the department or any authority, for that area. A second stage of impaired air quality is reached when a first stage of impaired air quality has been in force and has not been sufficient to reduce the increasing fine particulate pollution trend, fine particulates are at an ambient level of ((~~twenty-five~~)) 25 micrograms per cubic meter measured on a ((~~twenty-four~~)) 24-hour average, and forecasted meteorological conditions are not expected to allow levels of fine particulates to decline below ((~~twenty-five~~)) 25 micrograms per cubic meter for a period of ((~~twenty-four~~)) 24 hours or more from the time that the fine particulates are measured at the trigger level.

(ii) A second stage burn ban may be called without calling a first stage burn ban only when all of the following occur and shall require the department or the local air pollution control authority calling a second stage burn ban under this subsection to comply with the requirements of subsection (3) of this section:

(A) Fine particulate levels have reached or exceeded ((~~twenty-five~~)) 25 micrograms per cubic meter, measured on a ((~~twenty~~‑~~four~~)) 24-hour average;

(B) Meteorological conditions have caused fine particulate levels to rise rapidly;

(C) Meteorological conditions are predicted to cause fine particulate levels to exceed the ((~~thirty-five~~)) 35 micrograms per cubic meter, measured on a ((~~twenty-four~~)) 24-hour average, within ((~~twenty-four~~)) 24 hours; and

(D) Meteorological conditions are highly likely to prevent sufficient dispersion of fine particulate.

(iii) In fine particulate nonattainment areas or areas at risk for fine particulate nonattainment, a second stage burn ban may be called for the county containing the nonattainment area or areas at risk for nonattainment, and when feasible only for the necessary portions of the county, without calling a first stage burn ban only when (c)(ii)(A), (B), and (D) of this subsection have been met and meteorological conditions are predicted to cause fine particulate levels to reach or exceed ((~~thirty~~)) 30 micrograms per cubic meter, measured on a ((~~twenty-four~~)) 24-hour average, within ((~~twenty-four~~)) 24 hours.

(2) 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~~)) wood burning devices, except where authorized by chapter 199, Laws of 1991.

(3)(a) The department or any local air pollution control authority that has called a second stage burn ban under the authority of subsection (1)(c)(ii) of this section shall, within ((~~ninety~~)) 90 days, prepare a written report describing:

(i) The meteorological conditions that resulted in their calling the second stage burn ban;

(ii) Whether the agency could have taken actions to avoid calling a second stage burn ban without calling a first stage burn ban; and

(iii) Any changes the department or authority is making to its procedures of calling first stage and second stage burn bans to avoid calling a second stage burn ban without first calling a first stage burn ban.

(b) After consulting with affected parties, the department shall prescribe the format of such a report and may also require additional information be included in the report. All reports shall be sent to the department and the department shall keep the reports on file for not less than five years and available for public inspection and copying in accordance with RCW 42.56.090.

(4) For the purposes of chapter 219, Laws of 2012, an area at risk for nonattainment means an area where the three-year average of the annual ((~~ninety-eighth~~)) 98th percentile of ((~~twenty-four~~)) 24 hour fine particulate values is greater than ((~~twenty-nine~~)) 29 micrograms per cubic meter, based on the years 2008 through 2010 monitoring data.

(5)(a) Nothing in this section restricts a person from installing or repairing a certified ((~~solid fuel~~)) wood burning device ((~~approved by the department under the program established~~)) that meets the applicable emission standard and certification requirements adopted by the department under RCW 70A.15.3530 in a residence or commercial establishment or from replacing a ((~~solid fuel~~)) wood burning device with a certified ((~~solid fuel~~)) wood burning device that meets the applicable emission standard and certification requirements adopted by the department under RCW 70A.15.3530. Nothing in this section restricts a person from burning wood in a ((~~solid fuel~~)) wood burning device, regardless of whether a burn ban has been called, if there is an emergency power outage. In addition, for the duration of an emergency power outage, nothing restricts the use of a ((~~solid fuel~~)) wood burning device or the temporary installation, repair, or replacement of a ((~~solid fuel~~)) wood burning device to prevent the loss of life, health, or business.

(b) For the purposes of this subsection, an emergency power outage includes:

(i) Any natural or human-caused event beyond the control of a person that leaves the person's residence or commercial establishment temporarily without an adequate source of heat other than the ((~~solid fuel~~)) wood burning device; or

(ii) A natural or human-caused event for which the governor declares an emergency in an area under chapter 43.06 RCW, including a public disorder, disaster, or energy emergency under RCW 43.06.010(12).

**Sec.**  RCW 70A.15.3600 and 2020 c 20 s 1121 are each amended to read as follows:

(1) Unless allowed by rule under chapter 34.05 RCW, a person shall not cause or allow any of the following materials to be burned in any residential ((~~solid fuel~~)) wood burning device:

(a) Garbage;

(b) Treated wood;

(c) Plastics;

(d) Rubber products;

(e) Animals;

(f) Asphaltic products;

(g) Waste petroleum products;

(h) Paints; ((~~or~~))

(i) Coal; or

(j) Any substance, other than properly seasoned fuel wood, which normally emits dense smoke or obnoxious odors.

(2) To achieve and maintain attainment in areas of nonattainment for fine particulates in accordance with section 172 of the federal clean air act, a local air pollution control authority or the department may, after meeting requirements in subsection (3) of this section, prohibit the use of ((~~solid fuel~~)) wood burning devices, except:

(a) Fireplaces as defined in RCW 70A.15.3510(3), except if needed to meet federal requirements as a contingency measure in a state implementation plan for a fine particulate nonattainment area; or

(b) Woodstoves meeting the standards set forth in RCW 70A.15.3580(1)(b)((~~; or~~

~~(c) Pellet stoves~~)).

(3) Prior to prohibiting the use of ((~~solid fuel~~)) wood burning devices under subsection (2) of this section, the department or the local air pollution control authority must:

(a) Seek input from any city, county, or jurisdictional health department affected by the proposal to prohibit the use of ((~~solid fuel~~)) wood burning devices; and

(b) Make written findings that:

(i) The area is designated as an area of nonattainment for fine particulate matter by the United States environmental protection agency, or is in maintenance status under that designation;

(ii) Emissions from ((~~solid fuel~~)) wood burning devices in the area are a major contributing factor for violating the national ambient air quality standard for fine particulates; and

(iii) The area has an adequately funded program to assist low-income households to secure an adequate source of heat, which may include woodstoves meeting the requirements of RCW 70A.15.3510((~~(7)~~))(9).

(4) If and only if the nonattainment area is within the jurisdiction of the department and the legislative authority of a city or county within the area of nonattainment formally expresses concerns with the department's written findings, then the department must publish on the department's website the reasons for prohibiting the use of ((~~solid fuel~~)) wood burning devices under subsection (2) of this section that includes a response to the concerns expressed by the city or county legislative authority.

(5) When a local air pollution control authority or the department prohibits the use of ((~~solid fuel~~)) wood burning devices as authorized by this section, the cities, counties, and jurisdictional health departments serving the area shall cooperate with the department or local air pollution control authority as the department or the local air pollution control authority implements the prohibition. The responsibility for actual enforcement of the prohibition shall reside solely with the department or the local air pollution control authority. A city, county, or jurisdictional health department serving a fine particulate nonattainment area may agree to assist with enforcement activities.

(6) A prohibition issued by a local air pollution control authority or the department under this section shall not apply to:

(a) A person in a residence or commercial establishment that does not have an adequate source of heat without burning wood; or

(b) A person with a shop or garage that is detached from the main residence or commercial establishment that does not have an adequate source of heat in the detached shop or garage without burning wood.

(7) On June 7, 2012, and prior to January 1, 2015, the local air pollution control authority or the department shall, within available resources, provide assistance to households using ((~~solid fuel~~)) wood burning devices to reduce the emissions from those devices or change out to a lower emission device. Prior to the effective date of a prohibition, as defined in this section, on the use of uncertified stoves, the department or local air pollution control authority shall provide public education in the nonattainment area regarding how households can reduce their emissions through cleaner burning practices, the importance of respecting burn bans, and the opportunities for assistance in obtaining a cleaner device. If the area is designated as a nonattainment area as of January 1, 2015, or if required by the United States environmental protection agency, the local air pollution control authority or the department may prohibit the use of uncertified devices.

(8) As used in this section:

(a) "Jurisdictional health department" means a city, county, city-county, or district public health department.

(b) "Prohibit the use" or "prohibition" may include requiring disclosure of an uncertified device, removal, or rendering inoperable, as may be ((~~approved~~)) adopted by rule by a local air pollution control authority or the department. The effective date of such a rule may not be prior to January 1, 2015. However, except as provided in RCW 64.06.020 relating to the seller disclosure of wood burning appliances, any such prohibition may not include imposing separate time of sale obligations on the seller or buyer of real estate as part of a real estate transaction.

**--- END ---**