

SENATE BILL REPORT

SB 5334

As Reported by Senate Committee On:
Agriculture & Natural Resources, January 30, 2025
Ways & Means, February 18, 2025

Title: An act relating to adding the department of natural resources' civil enforcement decisions under RCW 76.04.205 to appeals that may be heard by the pollution control hearings board.

Brief Description: Adding the department of natural resources' civil enforcement decisions under RCW 76.04.205 to appeals that may be heard by the pollution control hearings board.

Sponsors: Senators Short, Chapman, Bateman and Nobles; by request of Department of Natural Resources.

Brief History:

Committee Activity: Agriculture & Natural Resources: 1/27/25, 1/30/25 [DP].
Ways & Means: 2/10/25, 2/18/25 [DP, w/oRec].

Brief Summary of Bill

- Provides authority for the Pollution Control Hearings Board to hear appeals of civil penalties issued by the Department of Natural Resources for violations of burning permits or silvicultural burning.

SENATE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

Majority Report: Do pass.

Signed by Senators Chapman, Chair; Krishnadasan, Vice Chair; Short, Ranking Member; Liias, Muzzall, Saldaña, Schoesler, Shewmake and Wagoner.

Staff: Jeff Olsen (786-7428)

SENATE COMMITTEE ON WAYS & MEANS

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.

Majority Report: Do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Frame, Vice Chair, Finance; Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Schoesler, Ranking Member, Capital; Dozier, Assistant Ranking Member, Capital; Boehnke, Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Muzzall, Riccelli, Saldaña, Wagoner, Warnick, Wellman and Wilson, C..

Minority Report: That it be referred without recommendation.

Signed by Senators Trudeau, Vice Chair, Capital; Pedersen.

Staff: Jed Herman (786-7346)

Background: Department of Natural Resources Burn Permits. The Department of Natural Resources (DNR) is responsible for issuing and regulating permits for certain burning activities on lands under DNR's 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 the forestlands of the state. Outdoor burning may be allowed for managing storm- or flood-related debris.

A person who violates the requirement to have a valid written burning permit obtained from DNR to burn any flammable material on any lands under the protection of DNR or to burn refuse or waste forest material on forestlands protected by DNR may incur a civil penalty under the Washington Clean Air Act in an amount not to exceed \$10,000 per day for each violation. Each such violation is a separate and distinct offense, and in the case of a continuing violation, each day's continuance is a separate and distinct violation. Civil enforcement actions related to violations of the burning permit statute must be consistent with the provisions of the burning permit statute.

The Washington Clean Air Act. The Washington Clean Air Act regulates outdoor air pollution. The Washington Clean Air Act defines air pollution as the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is, or is likely to be, injurious to human health, plant or animal life, or property, or which unreasonably interfere with enjoyment of life and property.

Air pollution control regulations address emissions of air contaminants that injure health or unreasonably interfere with enjoyment of life and property. Enforcement of the Washington Clean Air Act is generally handled either by the Department of Ecology (Ecology) or by one of the seven regional clean air agencies within Washington, depending on the county in which the source of the air contamination is located. Any person who violates any of the provisions of the Washington Clean Air Act may incur a civil penalty in an amount not to exceed \$10,000 per day for each violation.

Pollution Control Hearings Board. The Pollution Control Hearings Board (PCHB) is an

administrative body that hears and decides appeals from a number of state and local governmental agencies including Ecology, local conservation districts, air pollution control boards, local health departments, DNR, the Department of Fish and Wildlife, and the Parks and Recreation Commission. PCHB has jurisdiction to hear appeals covering a wide range of environmental permits and enforcement actions.

Summary of Bill: PCHB jurisdiction is expanded to include hearing appeals of civil penalties issued by DNR for violations of burning permits or silvicultural burning activities under the Washington Clean Air Act.

Appropriation: None.

Fiscal Note: Available.

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 (Agriculture & Natural Resources): PRO: The bill provides an appeal mechanism for a person incurring a civil infraction issued by DNR. DNR recently was granted authority to issue civil infractions for violations of burn permits, and was directed in the bill to pursue an appeals process. The PCHB is an independent administrative tribunal established to hear appeals.

Persons Testifying (Agriculture & Natural Resources): PRO: Senator Shelly Short, Prime Sponsor; Erika Odem, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying (Agriculture & Natural Resources): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: We support this bill as it provides a clear pathway for any appeal of DNR enforcement actions pertaining to silvicultural burning violations.

Persons Testifying (Ways & Means): PRO: Erika Odem, Department of Natural Resources.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.