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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

Prefiled 01/08/25.

1 AN ACT Relating to wood burning devices; amending RCW  
2 70A.15.3520, 70A.15.3530, 70A.15.3540, 70A.15.3550, 70A.15.3580, and  
3 70A.15.3600; and reenacting and amending RCW 70A.15.3510.

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

5 **Sec. 1.** RCW 70A.15.3510 and 2020 c 20 s 1115 are each reenacted  
6 and amended to read as follows:

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

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

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

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

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

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

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

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

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

14 ~~((7))~~ (9) "Woodstove" means a ~~((solid fuel))~~ wood burning  
15 device ~~((other than a fireplace not meeting the requirements of RCW~~  
16 ~~70A.15.3530)), including any fireplace insert, ~~((woodstove, wood~~  
17 ~~burning heater)) pellet stove, wood stick boiler, ~~((coal-fired~~  
18 ~~furnace, coal stove,))~~ or similar device burning any ~~((solid))~~ wood  
19 or pellet fuel, used for aesthetic or space-heating purposes in a  
20 private residence or commercial establishment, which has a heat input  
21 less than one million British thermal units per hour. The term  
22 "woodstove" does not include ~~((wood cook stoves))~~ fireplaces, masonry  
23 heaters, residential forced-air furnaces, or residential hydronic  
24 heaters. For purposes of this chapter, the term "woodstove" includes  
25 any residential wood heater as defined in 40 C.F.R. Part 60, Subpart  
26 AAA (2025).~~~~

27 **Sec. 2.** RCW 70A.15.3520 and 1991 c 199 s 503 are each amended to  
28 read as follows:

29 ~~((After January 1, 1992, no used solid fuel))~~ No wood burning  
30 device shall be installed in new or existing buildings unless such  
31 device ~~((is either Oregon department of environmental quality phase~~  
32 ~~II or United States environmental protection agency certified or a~~  
33 ~~pellet stove either certified or exempt from certification by the~~  
34 ~~United States environmental protection agency))~~ meets the applicable  
35 emission standard and certification requirements adopted by the  
36 department under this section. The department may adopt by rule  
37 additional certification procedures for wood burning devices to  
38 ensure compliance with the adopted emission standard. The department  
39 may also adopt by rule emission standards and other requirements for

1 residential home heating devices burning solid fuels other than wood  
2 or pellet fuel, including devices burning coal and other nongaseous  
3 and nonliquid fuels.

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

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

15 **Sec. 3.** RCW 70A.15.3530 and 1995 c 205 s 3 are each amended to  
16 read as follows:

17 The department of ecology shall establish by rule under chapter  
18 34.05 RCW:

19 (1) Statewide emission performance standards for new (~~solid~~  
20 ~~fuel~~) wood burning devices. The department may adopt rules to  
21 implement the federal emission standards for new residential wood  
22 heaters in 40 C.F.R. Part 60, subpart AAA (2025), and to implement  
23 the federal emission standards for new residential forced-air  
24 furnaces and new residential hydronic heaters in 40 C.F.R. Part 60,  
25 subpart QQQQ (2025). The department may also adopt rules to establish  
26 and implement emission standards for masonry heaters, which may  
27 include incorporation of federal emission standards adopted by the  
28 United States environmental protection agency. If the department  
29 adopts rules as authorized in this section, the department shall  
30 adopt the emission performance standards as they exist on January 1,  
31 2025. The department may amend the rules from time to time to  
32 maintain consistency with the emission performance standards adopted  
33 by the United States environmental protection agency unless the  
34 department finds that the requirements adopted by the United States  
35 environmental protection agency are less stringent than those in  
36 effect under this section or that the changes would adversely impact  
37 air quality. The department may adopt by rule a sell-through  
38 provision allowing retailers to sell United States environmental  
39 protection agency-certified wood burning devices in their inventory

1 for up to 12 months after a device is removed from the department's  
2 certification list. Notwithstanding any other provision of this  
3 chapter which allows an authority to adopt more stringent emission  
4 standards, no authority shall adopt any emission standard for new  
5 (~~solid fuel~~) wood burning devices other than the statewide standard  
6 adopted by the department under this section.

7 (a) (~~After January 1, 1995, no solid fuel~~) No wood burning  
8 device shall be offered for sale in this state to residents of this  
9 state that does not meet the (~~following particulate air contaminant~~  
10 ~~emission standards under the test methodology of the United States~~  
11 ~~environmental protection agency in effect on January 1, 1991, or an~~  
12 ~~equivalent standard under any test methodology adopted by the United~~  
13 ~~States environmental protection agency subsequent to such date: (i)~~  
14 ~~Two and one-half grams per hour for catalytic woodstoves; and (ii)~~  
15 ~~four and one-half grams per hour for all other solid fuel burning~~  
16 ~~devices. For purposes of this subsection, "equivalent" shall mean the~~  
17 ~~emissions limits specified in this subsection multiplied by a~~  
18 ~~statistically reliable conversion factor determined by the department~~  
19 ~~that compares the difference between the emission test methodology~~  
20 ~~established by the United States environmental protection agency~~  
21 ~~prior to May 15, 1991, with the test methodology adopted subsequently~~  
22 ~~by the agency. Subsection (a) of this subsection does not apply to~~  
23 ~~fireplaces~~) statewide emission performance standards adopted by the  
24 department under this section, using an applicable test methodology  
25 adopted by the United States environmental protection agency.

26 (b) After January 1, 1997, no fireplace, except masonry  
27 fireplaces, shall be offered for sale unless such fireplace meets the  
28 1990 United States environmental protection agency standards for  
29 woodstoves or equivalent standard that may be established by the  
30 state building code council by rule. Prior to January 1, 1997, the  
31 state building code council shall establish by rule a methodology for  
32 the testing of factory-built fireplaces. The methodology shall be  
33 designed to achieve a particulate air emission standard equivalent to  
34 the 1990 United States environmental protection agency standard for  
35 woodstoves. In developing the rules, the council shall include on the  
36 technical advisory committee at least one representative from the  
37 masonry fireplace builders and at least one representative of the  
38 factory-built fireplace manufacturers.

39 (c) Prior to January 1, 1997, the state building code council  
40 shall establish by rule design standards for the construction of new

1 masonry fireplaces in Washington state. In developing the rules, the  
2 council shall include on the technical advisory committee at least  
3 one representative from the masonry fireplace builders and at least  
4 one representative of the factory-built fireplace manufacturers. It  
5 shall be the goal of the council to develop design standards that  
6 generally achieve reductions in particulate air contaminant emissions  
7 commensurate with the reductions being achieved by factory-built  
8 fireplaces at the time the standard is established.

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

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

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

26 (2) A program to:

27 (a) Determine whether a new ~~((solid-fuel))~~ wood burning device  
28 complies with the statewide emission performance standards  
29 ~~((established in))~~ and certification requirements adopted under  
30 subsection (1) of this section; and

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

34 **Sec. 4.** RCW 70A.15.3540 and 2020 c 20 s 1116 are each amended to  
35 read as follows:

36 ~~((After July 1, 1988, no))~~ No person shall sell, offer to sell,  
37 or knowingly advertise to sell a ~~((new-woodstove))~~ wood burning  
38 device in this state to a resident of this state unless the  
39 ~~((woodstove has been approved by the department under the program~~

1 ~~established))~~ wood burning device meets the applicable emission  
2 standard and certification requirements adopted by the department  
3 under RCW 70A.15.3530.

4 **Sec. 5.** RCW 70A.15.3550 and 2020 c 20 s 1117 are each amended to  
5 read as follows:

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

10 **Sec. 6.** RCW 70A.15.3580 and 2020 c 20 s 1119 are each amended to  
11 read as follows:

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

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

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

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

33 (ii) A first stage burn ban for impaired air quality may be  
34 called for a county containing fine particulate nonattainment areas  
35 or areas at risk for fine particulate nonattainment, and when  
36 feasible only for the necessary portions of the county, when  
37 forecasted meteorological conditions are predicted to cause fine  
38 particulate levels to reach or exceed ~~((thirty))~~ 30 micrograms per

1 cubic meter, measured on a (~~(twenty-four)~~) 24-hour average, within  
2 (~~(seventy-two)~~) 72 hours; and

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

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

21 (A) Fine particulate levels have reached or exceeded (~~(twenty-~~  
22 ~~five)~~) 25 micrograms per cubic meter, measured on a (~~(twenty-four)~~)  
23 24-hour average;

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

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

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

32 (iii) In fine particulate nonattainment areas or areas at risk  
33 for fine particulate nonattainment, a second stage burn ban may be  
34 called for the county containing the nonattainment area or areas at  
35 risk for nonattainment, and when feasible only for the necessary  
36 portions of the county, without calling a first stage burn ban only  
37 when (c) (ii) (A), (B), and (D) of this subsection have been met and  
38 meteorological conditions are predicted to cause fine particulate  
39 levels to reach or exceed (~~(thirty)~~) 30 micrograms per cubic meter,

1 measured on a (~~twenty-four~~) 24-hour average, within (~~twenty-four~~)  
2 24 hours.

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

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

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

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

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

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

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

32 (5) (a) Nothing in this section restricts a person from installing  
33 or repairing a certified (~~solid-fuel~~) wood burning device  
34 (~~approved by the department under the program established~~) that  
35 meets the applicable emission standard and certification requirements  
36 adopted by the department under RCW 70A.15.3530 in a residence or  
37 commercial establishment or from replacing a (~~solid-fuel~~) wood  
38 burning device with a certified (~~solid-fuel~~) wood burning device  
39 that meets the applicable emission standard and certification  
40 requirements adopted by the department under RCW 70A.15.3530. Nothing

1 in this section restricts a person from burning wood in a ((~~solid~~  
2 ~~fuel~~)) wood burning device, regardless of whether a burn ban has been  
3 called, if there is an emergency power outage. In addition, for the  
4 duration of an emergency power outage, nothing restricts the use of a  
5 ((~~solid-fuel~~)) wood burning device or the temporary installation,  
6 repair, or replacement of a ((~~solid-fuel~~)) wood burning device to  
7 prevent the loss of life, health, or business.

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

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

14 (ii) A natural or human-caused event for which the governor  
15 declares an emergency in an area under chapter 43.06 RCW, including a  
16 public disorder, disaster, or energy emergency under RCW  
17 43.06.010(12).

18 **Sec. 7.** RCW 70A.15.3600 and 2020 c 20 s 1121 are each amended to  
19 read as follows:

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

23 (a) Garbage;

24 (b) Treated wood;

25 (c) Plastics;

26 (d) Rubber products;

27 (e) Animals;

28 (f) Asphaltic products;

29 (g) Waste petroleum products;

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

31 (i) Coal; or

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

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

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

4 (b) Woodstoves meeting the standards set forth in RCW  
5 70A.15.3580(1)(b) (~~(c)~~);  
6 ~~(c) Pellet stoves~~).

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

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

13 (b) Make written findings that:

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

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

20 (iii) The area has an adequately funded program to assist low-  
21 income households to secure an adequate source of heat, which may  
22 include woodstoves meeting the requirements of RCW 70A.15.3510(~~(7)~~)  
23 (9).

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

32 (5) When a local air pollution control authority or the  
33 department prohibits the use of (~~solid fuel~~) wood burning devices  
34 as authorized by this section, the cities, counties, and  
35 jurisdictional health departments serving the area shall cooperate  
36 with the department or local air pollution control authority as the  
37 department or the local air pollution control authority implements  
38 the prohibition. The responsibility for actual enforcement of the  
39 prohibition shall reside solely with the department or the local air  
40 pollution control authority. A city, county, or jurisdictional health

1 department serving a fine particulate nonattainment area may agree to  
2 assist with enforcement activities.

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

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

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

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

25 (8) As used in this section:

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

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

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