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**SUBSTITUTE SENATE BILL 5432**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Environment, Water & Energy (originally sponsored by Senators Regala, Chase, Fraser, Rockefeller, and Nelson; by request of Department of Ecology)

READ FIRST TIME 02/17/11.

1           AN ACT Relating to reducing fine particle pollution from solid fuel  
2 burning devices and fireplaces; amending RCW 70.94.473; and creating a  
3 new section.

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

5           **Sec. 1.** RCW 70.94.473 and 2008 c 40 s 1 are each amended to read  
6 as follows:

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

9           (a) Not burn wood in any solid fuel burning device whenever the  
10 department has determined under RCW 70.94.715 that any air pollution  
11 episode exists in that area;

12           (b) Not burn wood in any solid fuel burning device except those  
13 which are either Oregon department of environmental quality phase II or  
14 United States environmental protection agency certified or certified by  
15 the department under RCW 70.94.457(1) or a pellet stove either  
16 certified or issued an exemption by the United States environmental  
17 protection agency in accordance with Title 40, Part 60 of the code of  
18 federal regulations, in the geographical area and for the period of  
19 time that a first stage of impaired air quality has been determined, by

1 the department or any authority, for that area. A first stage of  
2 impaired air quality is reached when forecasted meteorological  
3 conditions are predicted to cause fine particulate levels to exceed  
4 thirty-five micrograms per cubic meter, measured on a twenty-four hour  
5 average, within forty-eight hours; and

6 (c)(i) Within areas of nonattainment or maintenance status for fine  
7 particulates in accordance with section 172 of the federal clean air  
8 act (42 U.S.C. Sec. 7502), not burn wood in any solid fuel burning  
9 device in a geographical area and for the period of time that a second  
10 stage of impaired air quality has been determined by the department or  
11 any authority, for that area. A second stage of impaired air quality  
12 within a nonattainment or maintenance area for fine particulate matter  
13 is reached when a first stage of impaired air quality has been in force  
14 and has not been sufficient to reduce the increasing fine particulate  
15 pollution trend, fine particulates are at an ambient level of (~~twenty-~~  
16 five)) twenty micrograms per cubic meter measured on a twenty-four hour  
17 average, and forecasted meteorological conditions are not expected to  
18 allow levels of fine particulates to decline below (~~twenty-five~~)  
19 twenty micrograms per cubic meter for a period of twenty-four hours or  
20 more from the time that the fine particulates are measured at the  
21 trigger level.

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

34 (iii) A second stage burn ban may be called without calling a first  
35 stage burn ban only when all of the following occur and shall require  
36 the department or the local air pollution control authority calling a  
37 second stage burn ban under this subsection (~~to comply with the~~  
38 ~~requirements of subsection (4) of this section~~):

1 (A) Fine particulate levels have reached or exceeded (~~twenty-five~~  
2 ~~micrograms per cubic meter, measured on a twenty-four hour average~~)  
3 the pollution levels defined in (c)(i) or (ii) of this subsection;

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

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

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

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

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

21 ~~(a) The meteorological conditions that resulted in their calling~~  
22 ~~the second stage burn ban;~~

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

25 ~~(c) Any changes the department or authority is making to its~~  
26 ~~procedures of calling first stage and second stage burn bans to avoid~~  
27 ~~calling a second stage burn ban without first calling a first stage~~  
28 ~~burn ban.~~

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

35 ~~(4) The department and local air pollution control authorities~~  
36 ~~shall evaluate the effectiveness of the burn ban programs contained in~~  
37 ~~this section in avoiding fine particulate levels to exceed thirty five~~

1 ~~micrograms per cubic meter, measured on a twenty-four hour average, and~~  
2 ~~provide a joint report of the results to the legislature by September~~  
3 ~~1, 2011.)~~)

4 NEW SECTION. **Sec. 2.** (1) The department of ecology shall convene  
5 a stakeholder work group to develop strategies to reduce fine particle  
6 pollution in communities that either are, or are at-risk of, violating  
7 national ambient air quality standards for fine particulate pollution  
8 principally due to pollution from solid fuel burning devices and  
9 fireplaces. The work group should include representatives of local  
10 governments, state and local health agencies, local air pollution  
11 control authorities, the utilities and transportation commission, the  
12 department of commerce, health advocacy organizations, local chambers  
13 of commerce, the hearth products industry, real estate and property  
14 management associations, other affected industries, neighborhood  
15 associations, community assistance programs, and the general public.

16 (2) The work group shall submit a report to the department of  
17 ecology and the chairs of the environmental and fiscal committees of  
18 the house of representatives and the senate by December 1, 2011, that  
19 includes recommendations for programs and strategies that will reduce  
20 emissions from solid fuel burning devices and fireplaces.  
21 Recommendations must also include:

22 (a) Public/private financing strategies and other options to fund  
23 emission reduction programs, strategies, and compliance; and

24 (b) Any legislation necessary to implement the proposed emission  
25 reduction programs, strategies, and compliance mechanisms.

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