
SENATE BILL 5835

State of Washington 61st Legislature 2009 Regular Session

By Senators Hatfield, Morton, Hargrove, Schoesler, Parlette, and Shin

Read first time 02/04/09. Referred to Committee on Environment, Water & Energy.

1 AN ACT Relating to outdoor burning; and amending RCW 70.94.743.

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

3 **Sec. 1.** RCW 70.94.743 and 2004 c 213 s 1 are each amended to read
4 as follows:

5 (1) Consistent with the policy of the state to reduce outdoor
6 burning to the greatest extent practical:

7 (a) Outdoor burning shall not be allowed in any area of the state
8 where federal or state ambient air quality standards are exceeded for
9 pollutants emitted by outdoor burning.

10 (b) Outdoor burning shall not be allowed in any urban growth area
11 as defined by RCW 36.70A.030, or any city of the state having a
12 population greater than ten thousand people if such cities are
13 threatened to exceed state or federal air quality standards, and
14 alternative disposal practices consistent with good solid waste
15 management are reasonably available or practices eliminating production
16 of organic refuse are reasonably available. In no event shall such
17 burning be allowed after December 31, 2000, except that within the
18 urban growth areas for cities having a population of less than five
19 thousand people, that are neither within nor contiguous with any

1 nonattainment or maintenance area designated under the federal clean
2 air act, in no event shall such burning be allowed after December 31,
3 2006.

4 (c) Notwithstanding any other provision of this section, outdoor
5 burning may be allowed for the exclusive purpose of managing storm or
6 flood-related debris. The decision to allow burning shall be made by
7 the entity with permitting jurisdiction as determined under RCW
8 70.94.660 or 70.94.755. If outdoor burning is allowed in areas subject
9 to (a) or (b) of this subsection, a permit shall be required, and a fee
10 may be collected to cover the expenses of administering and enforcing
11 the permit. All conditions and restrictions pursuant to RCW
12 70.94.750(1) and 70.94.775 apply to outdoor burning allowed under this
13 section.

14 (d) Notwithstanding any other provision of this section, outdoor
15 burning of organic debris shall be allowed on the first and third
16 Saturdays in November within urban growth areas as defined by RCW
17 36.70A.030 with a population of ten thousand people or less, provided
18 that:

19 (i) Legislative authorities for counties that designate urban
20 growth areas under RCW 36.70A.110 may choose not to allow outdoor
21 burning of organic debris on the first and third Saturdays in their
22 area of jurisdiction;

23 (ii) During an air pollution episode, outdoor burning of organic
24 debris shall not be allowed within urban growth areas that are subject
25 to the episode;

26 (iii) If a determination of impaired air quality has been made as
27 provided in RCW 70.94.473, then outdoor burning of organic debris shall
28 not be allowed within the urban growth area subject to such
29 determination. The outdoor burning of organic debris shall not be
30 allowed in these areas for the duration of the impaired air quality;

31 (iv) If burning is prohibited on either the first or third
32 Saturdays in November pursuant to (d)(ii) or (iii) of this subsection,
33 then outdoor burning of organic debris shall be allowed on the next
34 Saturday when there is not an air pollution episode or determination of
35 impaired air quality. If burning is prohibited on both the first and
36 third Saturdays in November because of air pollution episodes, then
37 outdoor burning of organic debris shall be allowed on the following two

1 Saturdays when there is not an air pollution episode or determination
2 of impaired air quality.

3 (e)(i) Outdoor burning that is normal, necessary, and customary to
4 ongoing agricultural activities, that is consistent with agricultural
5 burning authorized under RCW 70.94.650 and 70.94.656, is allowed within
6 the urban growth area as defined in (b) of this subsection if the
7 burning is not conducted during air (~~quality~~) pollution episodes, or
8 where a determination of impaired air quality has been made as provided
9 in RCW 70.94.473, and the agricultural activities preceded the
10 designation as an urban growth area.

11 (ii) Outdoor burning of cultivated orchard trees, whether or not
12 agricultural crops will be replanted on the land, shall be allowed as
13 an ongoing agricultural activity under this section if a local
14 horticultural pest and disease board formed under chapter 15.09 RCW, an
15 extension office agent with Washington State University that has
16 horticultural experience, or an entomologist employed by the department
17 of agriculture, has determined in writing that burning is an
18 appropriate method to prevent or control the spread of horticultural
19 pests or diseases.

20 (2) "Outdoor burning" means the combustion of material of any type
21 in an open fire or in an outdoor container without providing for the
22 control of combustion or the control of emissions from the combustion.

23 (3) This section shall not apply to silvicultural burning used to
24 improve or maintain fire dependent ecosystems for rare plants or
25 animals within state, federal, and private natural area preserves,
26 natural resource conservation areas, parks, and other wildlife areas.

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