
HOUSE BILL 1766

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Maxwell, Springer, Clibborn, Liias, and Anderson

Read first time 02/01/11. Referred to Committee on Environment.

1 AN ACT Relating to hydronic heaters; amending RCW 70.94.453 and
2 70.94.457; adding new sections to chapter 70.94 RCW; and prescribing
3 penalties.

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

5 **Sec. 1.** RCW 70.94.453 and 1987 c 405 s 2 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout RCW 70.94.453 through ~~((70.94.487))~~
9 70.94.483 and sections 3 through 8 of this act:

10 (1) "Department" means the department of ecology.

11 (2) "Wood stove" means a solid fuel burning device other than a
12 fireplace not meeting the requirements of RCW 70.94.457, including any
13 fireplace insert, wood stove, wood burning heater, wood stick boiler,
14 coal-fired furnace, coal stove, or similar device burning any solid
15 fuel used for aesthetic or space-heating purposes in a private
16 residence or commercial establishment, which has a heat input less than
17 one million British thermal units per hour. The term "wood stove" does
18 not include wood cook stoves or hydronic heaters.

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

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

10 (5) "Solid fuel burning device" means any device for burning wood,
11 coal, or any other nongaseous and nonliquid fuel, including a wood
12 stove and fireplace.

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

16 (7) "Opacity" means the degree to which an object seen through a
17 plume is obscured, stated as a percentage. The methods approved by the
18 department in accordance with RCW 70.94.331 shall be used to establish
19 opacity for the purposes of this chapter.

20 (8) "Hydronic heater" means a solid fuel burning device that is an
21 accessory indoor or outdoor structure designed or intended to: (a)
22 Burn wood or other approved solid fuels; and (b) heat building space or
23 water via the distribution, typically through pipes, of a fluid heated
24 in the device, typically water or a water and antifreeze mixture.

25 **Sec. 2.** RCW 70.94.457 and 1995 c 205 s 3 are each amended to read
26 as follows:

27 The department of ecology shall establish by rule under chapter
28 34.05 RCW:

29 (1) Statewide emission performance standards for new solid fuel
30 burning devices. Notwithstanding any other provision of this chapter
31 which allows an authority to adopt more stringent emission standards,
32 no authority shall adopt any emission standard for new solid fuel
33 burning devices or hydronic heaters other than the statewide standards
34 adopted by the department under this section.

35 (a) After January 1, 1995, no solid fuel burning device shall be
36 offered for sale in this state to residents of this state that does not
37 meet the following particulate air contaminant emission standards under

1 the test methodology of the United States environmental protection
2 agency in effect on January 1, 1991, or an equivalent standard under
3 any test methodology adopted by the United States environmental
4 protection agency subsequent to such date: (i) Two and one-half grams
5 per hour for catalytic wood stoves; and (ii) four and one-half grams
6 per hour for all other solid fuel burning devices. For purposes of
7 this subsection, "equivalent" shall mean the emissions limits specified
8 in this subsection multiplied by a statistically reliable conversion
9 factor determined by the department that compares the difference
10 between the emission test methodology established by the United States
11 environmental protection agency prior to May 15, 1991, with the test
12 methodology adopted subsequently by the agency. This subsection (1)(a)
13 ((of this subsection)) does not apply to: (A) Fireplaces; and (B)
14 hydronic heaters meeting the requirements of section 3 of this act.

15 (b) After January 1, 1997, no fireplace, except masonry fireplaces,
16 shall be offered for sale unless such fireplace meets the 1990 United
17 States environmental protection agency standards for wood stoves or
18 equivalent standard that may be established by the state building code
19 council by rule. Prior to January 1, 1997, the state building code
20 council shall establish by rule a methodology for the testing of
21 factory-built fireplaces. The methodology shall be designed to achieve
22 a particulate air emission standard equivalent to the 1990 United
23 States environmental protection agency standard for wood stoves. In
24 developing the rules, the council shall include on the technical
25 advisory committee at least one representative from the masonry
26 fireplace builders and at least one representative of the factory-built
27 fireplace manufacturers.

28 (c) Prior to January 1, 1997, the state building code council shall
29 establish by rule design standards for the construction of new masonry
30 fireplaces in Washington state. In developing the rules, the council
31 shall include on the technical advisory committee at least one
32 representative from the masonry fireplace builders and at least one
33 representative of the factory-built fireplace manufacturers. It shall
34 be the goal of the council to develop design standards that generally
35 achieve reductions in particulate air contaminant emissions
36 commensurate with the reductions being achieved by factory-built
37 fireplaces at the time the standard is established.

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

6 (e) (~~Subsection (1)(a) of this section shall not apply to~~
7 ~~fireplaces.~~

8 (~~f~~)) Notwithstanding (a) of this subsection, the department is
9 authorized to adopt, by rule, emission standards adopted by the United
10 States environmental protection agency for new wood stoves sold at
11 retail. For solid fuel burning devices for which the United States
12 environmental protection agency has not established emission standards,
13 the department may exempt or establish, by rule, statewide standards
14 including emission levels and test procedures for such devices and such
15 emission levels and test procedures shall be equivalent to emission
16 levels per pound per hour burned for other new wood stoves and
17 fireplaces regulated under this subsection.

18 (2) A program to:

19 (a) Determine whether a new solid fuel burning device complies with
20 the statewide emission performance standards established in subsection
21 (1) of this section; and

22 (b) Approve the sale of devices that comply with the statewide
23 emission performance standards.

24 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.94 RCW
25 to read as follows:

26 (1) Except as provided in section 4 of this act, a hydronic heater
27 may be sold, installed, and used in this state if:

28 (a) Testing is conducted using a method approved and used by the
29 United States environmental protection agency (as of the effective date
30 of this section this includes United States environmental protection
31 agency method 28 for outdoor wood hydronic heaters or ASTM method
32 E2618) or an alternate test method approved by the department for
33 hydronic heaters;

34 (b) The hydronic heater meets the requirements of the United States
35 environmental protection agency phase two outdoor wood-fired hydronic
36 heater program;

1 (c) Installation meets all applicable state and local building and
2 fire safety codes; and

3 (d) The owner or operator of a hydronic heater uses clean dry wood,
4 wood pellets made from clean wood, or fuels recommended by the
5 manufacturer of the hydronic heater. The owner or operator of a
6 hydronic heater shall follow manufacturer-recommended fuel loading
7 times and amounts.

8 (2) The hydronic heater, if installed outdoors, must be installed:

9 (a) A minimum of fifty feet from the residence it is serving;

10 (b) A minimum of two hundred feet from the nearest residence or
11 commercial establishment that is not located on the same property as
12 the outdoor hydronic heater; and

13 (c) With a minimum chimney height of fifteen feet. If there is a
14 residence that is not located on the same property within five hundred
15 feet of the outdoor hydronic heater, the chimney must extend at least
16 as high above the ground surfaces as the height of the roofs of all
17 such residences.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.94 RCW
19 to read as follows:

20 (1) Hydronic heaters may not be installed, used, or knowingly sold
21 to be installed or used within incorporated areas of an urban growth
22 area as defined in RCW 36.70A.030.

23 (2) Hydronic heaters may not be installed, used, or knowingly sold
24 to be installed or used in an area formally designated by the United
25 States environmental protection agency as a nonattainment area or
26 maintenance area for particulates.

27 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.94 RCW
28 to read as follows:

29 A person may not sell, offer for sale, or knowingly advertise for
30 sale a new or used hydronic heater in this state to a resident of this
31 state unless the hydronic heater meets all conditions under section 3
32 of this act.

33 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.94 RCW
34 to read as follows:

35 (1) A person who sells, offers for sale, or knowingly advertises

1 for sale a hydronic heater in this state in violation of section 5 of
2 this act is subject to the penalties and enforcement actions under this
3 chapter.

4 (2) A person who purchases, installs, and uses a hydronic heater in
5 violation of section 3 or 4 of this act is subject to the penalties and
6 enforcement actions under this chapter.

7 (3) A person who uses any fuel other than clean dry wood, wood
8 pellets made from clean wood, or clean-burning fuels recommended by the
9 manufacturer of the hydronic heater in violation of section 3(1)(d) of
10 this act is subject to the penalties and enforcement actions under this
11 chapter.

12 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.94 RCW
13 to read as follows:

14 The department shall adopt rules consistent with any new source
15 performance standard for hydronic heaters promulgated by the United
16 States environmental protection agency.

17 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.94 RCW
18 to read as follows:

19 A city or county may prohibit the installation and use of hydronic
20 heaters within its local jurisdiction by local ordinance.

--- END ---