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**SUBSTITUTE SENATE BILL 5075**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** Senate Committee on Water, Energy & Telecommunications (originally sponsored by Senators Honeyford, Rasmussen, Hewitt, Clements, Schoesler, Roach and Parlette)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to outdoor burning in rural counties; and amending  
2 RCW 70.94.743.

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

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

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

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

11 (b) Outdoor burning shall not be allowed in any urban growth area  
12 as defined by RCW 36.70A.030, or any city of the state having a  
13 population greater than ten thousand people if such cities are  
14 threatened to exceed state or federal air quality standards, and  
15 alternative disposal practices consistent with good solid waste  
16 management are reasonably available or practices eliminating production  
17 of organic refuse are reasonably available. In no event shall such  
18 burning be allowed after December 31, 2000, except that within the  
19 urban growth areas for cities having a population of less than five

1 thousand people, that are neither within nor contiguous with any  
2 nonattainment or maintenance area designated under the federal clean  
3 air act, in no event shall such burning be allowed after December 31,  
4 2006.

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

15 (d)(i) Outdoor burning that is normal, necessary, and customary to  
16 ongoing agricultural activities, that is consistent with agricultural  
17 burning authorized under RCW 70.94.650 and 70.94.656, is allowed within  
18 the urban growth area as defined in (b) of this subsection if the  
19 burning is not conducted during air quality episodes, or where a  
20 determination of impaired air quality has been made as provided in RCW  
21 70.94.473, and the agricultural activities preceded the designation as  
22 an urban growth area.

23 (ii) Outdoor burning of cultivated orchard trees, whether or not  
24 agricultural crops will be replanted on the land, shall be allowed as  
25 an ongoing agricultural activity under this section if a local  
26 horticultural pest and disease board formed under chapter 15.09 RCW, an  
27 extension office agent with Washington State University that has  
28 horticultural experience, or an entomologist employed by the department  
29 of agriculture, has determined in writing that burning is an  
30 appropriate method to prevent or control the spread of horticultural  
31 pests or diseases.

32 (e)(i) In rural counties with a population density of fewer than  
33 one hundred persons per square mile, as determined by the office of  
34 financial management, cut brush and timber may be burned within an  
35 urban growth area as defined by RCW 36.70A.030 to protect life or  
36 property from a fire hazard when a federal, state, or local fire  
37 official has determined in writing that the material at the site poses

1 a fire hazard and that properly burning the material is an appropriate  
2 method to eliminate the hazard, unless:

3 (A) The urban growth area is within an area of the state identified  
4 as nonattainment or maintenance for federal ambient air quality  
5 standards for pollutants emitted by outdoor burning;

6 (B) There is an air quality episode, or a determination of impaired  
7 air quality has been made as provided in RCW 70.94.473; or

8 (C) The department or local air authorities have identified either  
9 alternative disposal methods or facilities, or both that are: Located  
10 within a reasonable distance; consistent with good solid-waste  
11 management practices and will accept the type and volume of organic  
12 refuse; and available at a reasonable cost, including any anticipated  
13 labor, material, and equipment costs incurred to handle, pile, chip,  
14 haul, or dispose of the material, that is less than or equivalent to  
15 the median of all county tipping fees in the state for disposal of  
16 municipal solid waste.

17 (ii) If the conditions of this subsection (1)(e) are met, the  
18 appropriate permitting entity under this chapter shall issue, but may  
19 require fire containment and weather-related conditions on, a site  
20 specific permit to allow burning consistent with this subsection  
21 (1)(e). A local fire district making a fire hazard determination or  
22 issuing a site-specific burning permit, or both, may collect a fee, not  
23 to exceed thirty-five dollars. Other entities issuing a site-specific  
24 burning permit may collect a fee not to exceed five dollars.

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

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

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