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**SENATE BILL 5697**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Cleveland, Darneille, and Nguyen; by request of Department of Ecology

1 AN ACT Relating to the sale and installation of solid fuel  
2 burning devices; and amending RCW 70.94.455, 70.94.457, and  
3 70.94.483.

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

5 **Sec. 1.** RCW 70.94.455 and 1991 c 199 s 503 are each amended to  
6 read as follows:

7 ~~((After January 1, 1992,))~~ (1) No ~~((used))~~ solid fuel burning  
8 device shall be offered for sale or installed in new or existing  
9 buildings unless such device is ~~((either Oregon department of  
10 environmental quality phase II or United States environmental  
11 protection agency))~~ certified ~~((or a pellet stove either certified or  
12 exempt from certification by the United States environmental  
13 protection agency))~~ to statewide emission performance standards under  
14 RCW 70.94.457.

15 ~~((1) By July 1, 1992,))~~ (2) The state building code council  
16 shall adopt rules requiring an adequate source of heat other than  
17 woodstoves in all new and substantially remodeled residential and  
18 commercial construction. This rule shall apply (a) to areas  
19 designated by a county to be an urban growth area under chapter  
20 36.70A RCW; and (b) to areas designated by the environmental  
21 protection agency as being in nonattainment for particulate matter.

1        ~~((2))~~ (3) For purposes of this section, "substantially  
2 remodeled" means any alteration or restoration of a building  
3 exceeding sixty percent of the appraised value of such building  
4 within a twelve-month period.

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

7        The department of ecology shall establish by rule under chapter  
8 34.05 RCW:

9        (1) Statewide emission performance standards for new solid fuel  
10 burning devices. Notwithstanding any other provision of this chapter  
11 which allows an authority to adopt more stringent emission standards,  
12 no authority shall adopt any emission standard for new solid fuel  
13 burning devices other than the statewide standard adopted by the  
14 department under this section.

15        (a) After January 1, 1995, no solid fuel burning device shall be  
16 offered for sale in this state to residents of this state that does  
17 not meet the following particulate air contaminant emission standards  
18 under the test methodology of the United States environmental  
19 protection agency in effect on January 1, 1991, or an equivalent  
20 standard under any test methodology adopted by the United States  
21 environmental protection agency subsequent to such date: (i) Two and  
22 one-half grams per hour for catalytic woodstoves; and (ii) four and  
23 one-half grams per hour for all other solid fuel burning devices. For  
24 purposes of this subsection, "equivalent" shall mean the emissions  
25 limits specified in this subsection multiplied by a statistically  
26 reliable conversion factor determined by the department that compares  
27 the difference between the emission test methodology established by  
28 the United States environmental protection agency prior to May 15,  
29 1991, with the test methodology adopted subsequently by the agency.  
30 ~~((Subsection (a) of))~~ This subsection (1)(a) does not apply to  
31 fireplaces.

32        ~~((After January 1, 1997,))~~ After January 1, 2021, no solid  
33 fuel burning device shall be offered for sale in this state to  
34 residents of this state that does not meet the following particulate  
35 air contaminant emission standard under the test methodology of the  
36 United States environmental protection agency in effect on the  
37 effective date of this section, or any test methodology adopted by  
38 the department or the United States environmental protection agency

1 subsequent to such date: Two grams per hour for all solid fuel  
2 burning devices. This subsection (1)(b) does not apply to fireplaces.

3 (c) No fireplace, except masonry fireplaces, shall be offered for  
4 sale unless such fireplace meets the ((1990)) United States  
5 environmental protection agency standards for woodstoves in effect on  
6 the effective date of this section or equivalent standard that may be  
7 established by the state building code council by rule. ((Prior to  
8 January 1, 1997,)) The state building code council shall establish by  
9 rule a methodology for the testing of factory-built fireplaces. The  
10 methodology shall be designed to achieve a particulate air emission  
11 standard equivalent to the ((1990)) United States environmental  
12 protection agency standard for woodstoves in effect on the effective  
13 date of this section. In developing the rules, the council shall  
14 include on the technical advisory committee at least one  
15 representative from the masonry fireplace builders and at least one  
16 representative of the factory-built fireplace manufacturers.

17 ~~((e))~~ (d) Prior to January 1, 1997, the state building code  
18 council shall establish by rule design standards for the construction  
19 of new masonry fireplaces in Washington state. In developing the  
20 rules, the council shall include on the technical advisory committee  
21 at least one representative from the masonry fireplace builders and  
22 at least one representative of the factory-built fireplace  
23 manufacturers. It shall be the goal of the council to develop design  
24 standards that generally achieve reductions in particulate air  
25 contaminant emissions commensurate with the reductions being achieved  
26 by factory-built fireplaces at the time the standard is established.

27 ~~((d))~~ (e) Actions of the department and local air pollution  
28 control authorities under this section shall preempt actions of other  
29 state agencies and local governments for the purposes of controlling  
30 air pollution from solid fuel burning devices, except where  
31 authorized by chapter 199, Laws of 1991.

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

34 (f) Notwithstanding (a) of this subsection, the department is  
35 authorized to adopt, by rule, emission standards adopted by the  
36 United States environmental protection agency for new woodstoves sold  
37 at retail. For solid fuel burning devices for which the United States  
38 environmental protection agency has not established emission  
39 standards, the department may exempt or establish, by rule, statewide  
40 standards including emission levels and test procedures for such

1 devices and such emission levels and test procedures shall be  
2 equivalent to emission levels per pound per hour burned for other new  
3 woodstoves and fireplaces regulated under this subsection.

4 (2) A program to:

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

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

10 **Sec. 3.** RCW 70.94.483 and 2003 1st sp.s. c 25 s 932 are each  
11 amended to read as follows:

12 (1) The woodstove education and enforcement account is hereby  
13 created in the state treasury. Money placed in the account shall  
14 include all money received under subsection (2) of this section and  
15 any other money appropriated by the legislature. Money in the account  
16 shall be spent for the purposes of the woodstove education program  
17 established under RCW 70.94.480 and for enforcement of the woodstove  
18 program, and shall be subject to legislative appropriation.

19 ~~((However, during the 2003-05 fiscal biennium, the legislature may  
20 transfer from the woodstove education and enforcement account to the  
21 air pollution control account such amounts as specified in the  
22 omnibus operating budget bill.))~~ The department may adopt by rule a  
23 process to distribute the money in the account for the purposes of  
24 woodstove education and enforcement.

25 (2) ~~((The department of ecology, with the advice of the advisory  
26 committee, shall set))~~ A flat fee of ((thirty)) fifty dollars((~~7~~))  
27 must be assessed on the retail sale, as defined in RCW 82.04.050, of  
28 each solid fuel burning device ((after January 1, 1992)). The fee  
29 shall be imposed upon the consumer and shall not be subject to the  
30 retail sales tax provisions of chapters 82.08 and 82.12 RCW. ((The  
31 fee may be adjusted annually above thirty dollars to account for  
32 inflation as determined by the state office of the economic and  
33 revenue forecast council.)) Beginning January 1, 2021, and each  
34 January 1st thereafter, this fee must be increased by the fiscal  
35 growth factor approved for the concurrent fiscal year in accordance  
36 with chapter 43.135 RCW. The fee must be rounded to the nearest whole  
37 dollar. The fee shall be collected by the department of revenue in  
38 conjunction with the retail sales tax under chapter 82.08 RCW. If the  
39 seller fails to collect the fee herein imposed or fails to remit the

1 fee to the department of revenue in the manner prescribed in chapter  
2 82.08 RCW, the seller shall be personally liable to the state for the  
3 amount of the fee. The collection provisions of chapter 82.32 RCW  
4 shall apply. The department of revenue shall deposit fees collected  
5 under this section in the woodstove education and enforcement  
6 account.

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