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**SENATE BILL 5535**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Stanford and Valdez

1 AN ACT Relating to protecting human health from excessive air  
2 pollution; amending RCW 70A.15.6010; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that toxic and  
5 conventional air pollutants are known or suspected to cause serious  
6 health problems. Potential health effects include cancer, lung  
7 damage, heart disease, and nerve damage. These pollutants are even  
8 more dangerous during periods of unhealthy air quality such as  
9 stagnant weather conditions or wildfire smoke events. When weather  
10 conditions and rising pollution levels reach a certain threshold, the  
11 department of ecology and regional clean air authorities can issue an  
12 air quality burn ban on the use of woodstoves in homes and  
13 businesses. The burn bans are mandatory, yet temporary, to restrict  
14 the use of wood stoves and fireplaces when human health may be  
15 impacted, yet major industrial sources of the same contaminants are  
16 not subject to such a limitation on emissions. To further protect  
17 public health, the legislature intends to provide the department of  
18 ecology and local air authorities with the authority to limit the  
19 operations of industrial facilities that are major sources of such  
20 contaminants, by incorporating specific provisions into the state's  
21 air quality episode avoidance plans.

1       **Sec. 2.** RCW 70A.15.6010 and 2020 c 20 s 1152 are each amended to  
2 read as follows:

3       (1) The department of ecology is hereby authorized to develop an  
4 episode avoidance plan providing for the phased reduction of  
5 emissions wherever and whenever an air pollution episode is forecast.  
6 Such an episode avoidance plan shall conform with any applicable  
7 federal standards and shall be effective statewide. The episode  
8 avoidance plan may be implemented on an area basis in accordance with  
9 the occurrence of air pollution episodes in any given area.

10       (2) The department of ecology may delegate authority to adopt  
11 source emission reduction plans and authority to implement all stages  
12 of occurrence up to and including the warning stage, and all  
13 intermediate stages up to the warning stage, in any area of the  
14 state, to the air pollution control authority with jurisdiction  
15 therein.

16       (3) The episode avoidance plan, which shall be established by  
17 ~~((regulation))~~ rule in accordance with chapter 34.05 RCW, shall  
18 include, but not be limited to, the following:

19       ~~((+1))~~ (a) The designation of episode criteria and stages, the  
20 occurrence of which will require the carrying out of preplanned  
21 episode avoidance procedures. The stages of occurrence shall be  
22 ~~((+a))~~ (i) forecast~~((, +b))~~; (ii) alert~~((, +c))~~; (iii) warning~~((, +d))~~; (iv) emergency~~((, +e))~~; and such intermediate stages as the  
23 department shall designate. "Forecast" means the presence of  
24 meteorological conditions that are conducive to accumulation of air  
25 contaminants and is the first stage of an episode. The department  
26 shall not call a forecast episode prior to the department or an  
27 authority calling a first stage impaired air quality condition as  
28 provided by RCW 70A.15.3580(1)(b) or calling a single-stage impaired  
29 air quality condition as provided by RCW 70A.15.3580. "Alert" means  
30 concentration of air contaminants at levels at which short-term  
31 health effects may occur, and is the second stage of an episode.  
32 "Warning" means concentrations are continuing to degrade, contaminant  
33 concentrations have reached a level which, if maintained, can result  
34 in damage to health, and additional control actions are needed and is  
35 the third level of an episode. "Emergency" means the air quality is  
36 posing an imminent and substantial endangerment to public health and  
37 is the fourth level of an episode;

38       ~~((+2))~~ (b) The requirement that persons responsible for the  
39 operation of air contaminant sources prepare and obtain approval from  
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1 the director of source emission reduction plans, consistent with good  
2 operating practice and safe operating procedures, for reducing  
3 emissions during designated episode stages;

4 ~~((3))~~ (c) During a second stage burn ban declared pursuant to  
5 RCW 70A.15.3580 and during any episode declared pursuant to this  
6 section, require that major industrial manufacturing air contaminant  
7 sources of fine particulate matter reduce operations;

8 (d) Provision for the director of the department of ecology or  
9 his or her authorized representative, or the air pollution control  
10 officer if implementation has been delegated, on the satisfaction of  
11 applicable criteria, to declare and terminate the forecast, alert,  
12 warning and all intermediate stages, up to the warning episode stage,  
13 such declarations constituting orders for action in accordance with  
14 applicable source emission reduction plans;

15 ~~((4))~~ (e) Provision for the governor to declare and terminate  
16 the emergency stage and all intermediate stages above the warning  
17 episode stage, such declarations constituting orders in accordance  
18 with applicable source emission reduction plans;

19 ~~((5))~~ (f) Provisions for enforcement by state and local police,  
20 personnel of the departments of ecology and social and health  
21 services, and personnel of local air pollution control agencies; and

22 ~~((6))~~ (g) Provisions for reduction or discontinuance of  
23 emissions immediately, consistent with good operating practice and  
24 safe operating procedures, under an air pollution emergency as  
25 provided in RCW 70A.15.6020.

26 (4) Source emission reduction plans shall be considered orders of  
27 the department and shall be subject to appeal to the pollution  
28 control hearings board according to the procedure in chapter 43.21B  
29 RCW.

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