
SUBSTITUTE SENATE BILL 5697

State of Washington

66th Legislature

2019 Regular Session

By Senate Environment, Energy & Technology (originally sponsored 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; amending RCW 70.94.455, 70.94.457, and 70.94.483;
3 and providing an effective date.

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((,))
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.

7 NEW SECTION. **Sec. 4.** Section 3 of this act takes effect January
8 1, 2020.

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