

upon the application of the beneficiary, made within ((five)) seven years after the establishment or termination of such compensation, or upon his own motion, readjust for further application the rate of compensation in accordance with the rules in this section provided for the same, or in a proper case terminate the payment; PROVIDED, That the time limitation of this section shall be ten years in claims involving loss of vision or function of the eyes.

No act done or ordered to be done by the director, or the department prior to the signing and filing in the matter of a written order for such readjustment shall be ground for such readjustment.

Passed the House March 28, 1973.

Passed the Senate April 14, 1973.

Approved by the Governor April 25, 1973.

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CHAPTER 193

[Substitute House Bill No. 862]

AIR POLLUTION CONTROL

AN ACT Relating to air pollution; amending section 1, chapter 238, Laws of 1967 as amended by section 1, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.011; amending section 29, chapter 238, Laws of 1967 as amended by section 20, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.152; amending section 33, chapter 238, Laws of 1967 as amended by section 23, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.205; amending section 49, chapter 238, Laws of 1967 as amended by section 35, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.334; adding new sections to chapter 70.94 RCW; creating a new section; repealing section 5, chapter 232, Laws of 1957 and RCW 70.94.050; repealing section 47, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.520; repealing section 48, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.530; repealing section 49, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.540; repealing section 50, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.550; and repealing section 51, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.560.

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

Section 1. Section 1, chapter 238, Laws of 1967 as amended by section 1, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.011 are each amended to read as follows:

It is declared to be the public policy of the state to secure and maintain such levels of air quality as will protect human health

and safety and comply with the requirements of the federal clean air act, and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of its inhabitants, promote the economic and social development of the state, and facilitate the enjoyment of the natural attractions of the state. The problems and effects of air pollution are frequently regional and interjurisdictional in nature, and are dependent upon the existence of urbanization and industrialization in areas having common topography and recurring weather conditions conducive to the buildup of air contaminants.

It is also declared as public policy that regional air pollution control programs are to be encouraged and supported to the extent practicable as essential instruments for the securing and maintenance of appropriate levels of air quality.

It is also declared to be the public policy of the state to provide for the people of the populous metropolitan regions in the state the means of obtaining air pollution control not adequately provided by existing agencies of local government. For reasons of the present and potential dramatic growth in population, urbanization, and industrialization, the special problem of air resource management, encompassing both corrective and preventive measures for the control of air pollution cannot be adequately met by the individual towns, cities, and counties of many metropolitan regions.

In addition, the state is divided into two major areas, each having unique characteristics as to natural climatic and topographic features which may result in the different potentials for the accumulation and buildup of air contaminant concentrations. These two major areas are the area lying west of the Cascade Mountain crest and the area lying east of the Cascade Mountain crest. Within each of these major areas are regions which, because of the climate and topography and present and potential urbanization and industrial development may, through definitive evaluation be classed as regional air pollution areas.

To these ends it is the purpose of this chapter to provide for a coordinated state-wide program of air pollution prevention and control, for an appropriate distribution of responsibilities between the state, regional, and local units of government, and for cooperation across jurisdictional lines in dealing with problems of air pollution.

Sec. 2. Section 29, chapter 238, Laws of 1967 as amended by section 20, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.152 are each amended to read as follows:

(1) The ((state board)) department of ecology or board of any authority may require notice of the construction, installation, or

establishment of any new air contaminant sources except single family and duplex dwellings ((specified by class or classes in its ordinances; resolutions; rules or regulations relating to air pollution)). The ((state board)) department of ecology or board may require such notice to be accompanied by a fee and determine the amount of such fee ((for such class or classes)): PROVIDED, That the amount of the fee may not exceed the cost of reviewing the plans, specifications, and other information and administering such notice: PROVIDED FURTHER, That any such notice given to either the board or to the ((state board)) department of ecology shall preclude a further notice to be given to any other board or to the ((state board)) department of ecology. Within thirty days of its receipt of such notice, the ((state board)) department of ecology or board may require, as a condition precedent to the construction, installation, or establishment of the air contaminant source or sources covered thereby, the submission of plans, specifications, and such other information as it deems necessary in order to determine whether the proposed construction, installation, or establishment will be in accord with applicable rules and regulations in force pursuant to this chapter, and will provide all known available and reasonable methods of emission control. If ((within thirty days of the receipt)) on the basis of plans, specifications, or other information required pursuant to this section the ((state board)) department of ecology or board determines that the proposed construction, installation, or establishment will not be in accord with this chapter or the applicable ordinances, resolutions, rules, and regulations adopted pursuant thereto, or will not provide all known available and reasonable means of emission control, it shall issue an order for the prevention of the construction, installation, or establishment of the air contaminant source or sources. ((Failure of such order to issue within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed: PROVIDED, That it is in accordance with the plans, specifications or other information, if any, required to be submitted:)) If on the basis of plans, specifications, or other information required pursuant to this section, the department of ecology or board determines that the proposed construction, installation, or establishment will be in accord with this chapter, and the applicable ordinances, resolutions, rules, and regulations adopted pursuant thereto and will provide all known available and reasonable methods of emission control, it shall issue an order of approval of the construction, installation, and establishment of the air contaminant source or sources, which order may provide such conditions of operation as are reasonably necessary to assure the maintenance of compliance with this chapter and the applicable

ordinances, resolutions, rules, and regulations adopted pursuant thereto.

(2) For the purposes of this chapter, addition to or enlargement or replacement of an air contaminant source, or any major alteration therein, shall be construed as construction or installation or establishment of a new air contaminant source. The determination, under subsection (1) of this section, of whether a proposed construction, installation, or establishment will be in accord with this chapter and the applicable ordinances, resolutions, rules, and regulations adopted pursuant thereto shall include a determination of whether the operation of the new air contaminant source at the location proposed will cause any ambient air quality standard to be exceeded.

(3) Nothing in this section shall be construed to authorize the ((state board)) department of ecology or board to require the use of emission control equipment or other equipment, machinery, or devices of any particular type, from any particular supplier, or produced by any particular manufacturer.

(4) Any features, machines, and devices constituting parts of or called for by plans, specifications, or other information submitted pursuant to subsection (1) hereof shall be maintained in good working order.

(5) The absence of an ordinance, resolution, rule, or regulation, or the failure to issue an order pursuant to this section shall not relieve any person from his obligation to comply with any emission control requirements or with any other provision of law.

NEW SECTION. Sec. 3. There is added to chapter 70.94 RCW a new section to read as follows:

Whenever any regulation relating to emission standards or other requirements for the control of emissions is adopted which provides for compliance with such standards or requirements no later than a specified time after the date of adoption of the regulation, the appropriate activated air pollution control authority or, if there be none, the department of ecology shall, by regulatory order, issue to air contaminant sources subject to the standards or requirements, schedules of compliance setting forth timetables for the achievement of compliance as expeditiously as practicable but in no case later than the time specified in the regulation. Interim dates in such schedules for the completion of steps of progress toward compliance shall be as enforceable as the final date for full compliance therein.

Sec. 4. Section 33, chapter 238, Laws of 1967 as amended by section 23, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.205 are each amended to read as follows:

Whenever any records or other information, other than ambient

air quality data or emission data, furnished to or obtained by the ((state board)) department of ecology or the board of any authority pursuant to any sections in chapter 70.94 RCW, relate to processes or production unique to the owner or operator, or is likely to affect adversely the competitive position of such owner or operator if released to the public or to a competitor, and the owner or operator of such processes or production so certifies, such records or information shall be only for the confidential use of the ((state board)) department of ecology or board. Nothing herein shall be construed to prevent the use of records or information by the ((state board)) department of ecology or board in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere: PROVIDED, That such analyses or summaries do not reveal any information otherwise confidential under the provisions of this section; PROVIDED FURTHER, That emission data furnished to or obtained by the department of ecology or board shall be correlated with applicable emission limitations and other control measures and shall be available for public inspection during normal business hours at offices of the department of ecology or board.

Sec. 5. Section 49, chapter 238, Laws of 1967 as amended by section 35, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.334 are each amended to read as follows:

(1) In all instances where the ((state board)) department of ecology or board of any authority is permitted or required to hold hearings under the provisions of this chapter, such hearings shall be held before the ((state board)) department of ecology or board of any authority, or the state board or board of any authority may appoint a hearing officer((; who shall have an attorney admitted to practice in the state)).

(2) A duly appointed hearing officer shall have all the powers, rights, and duties of the ((state board)) department of ecology or board of any authority relating to the conduct of hearings.

~~((3) At the conclusion of a hearing at which he has presided, the hearing officer shall prepare written findings of fact and conclusions of law, and a recommended decision. Parties to the proceeding shall be notified of the proposed decision as provided in RCW 34.04.110 through 34.04.120, as now or hereafter amended.))~~

NEW SECTION. Sec. 6. There is added to chapter 70.94 RCW a new section to read as follows:

Whenever the department of ecology shall find that any county which is outside the jurisdictional boundaries of an activated air pollution control authority is capable of effectively administering the issuance and enforcement of permits for any or all of the kinds of burning identified in RCW 70.94.650(1) and (3) and desirous of

doing so, the department of ecology may delegate all powers necessary for the issuance and enforcement of permits for any or all of the kinds of burning to the county: PROVIDED, That such delegation may be withdrawn by the department of ecology upon a finding that the county is not effectively administering the permit program.

NEW SECTION. Sec. 7. There is added to chapter 70.94 RCW a new section to read as follows:

It is hereby declared to be the policy of this state that strong efforts should be made to minimize adverse effects on air quality from the open burning of field and turf grasses grown for seed. To such end this section is intended to promote the development of economical and practical alternate agricultural practices to such burning, and to provide for interim regulation of such burning until practical alternates are found.

(1) The department shall approve of a study or studies for the exploration and identification of economical and practical alternate agricultural practices to the open burning of field and turf grasses grown for seed. Prior to the issuance of any permit for such burning under RCW 70.94.650, there shall be collected a fee not to exceed fifty cents per acre of crop to be burned. Any such fees received by any authority shall be transferred to the department of ecology. The department of ecology shall deposit all such acreage fees in a special grass seed burning research account, hereby created, in the general fund. The department shall allocate moneys annually from this account for the support of any approved study or studies as provided for in this subsection. For the conduct of any such study or studies, the department may contract with public or private entities: PROVIDED, That whenever the department of ecology shall conclude that sufficient reasonably available alternates to open burning have been developed, and at such time as all costs of any studies have been paid, the grass seed burning research account shall be dissolved, and any money remaining therein shall revert to the general fund.

(2) Whenever on the basis of information available to it, the department after public hearings have been conducted wherein testimony will be received and considered from interested parties wishing to testify shall conclude that any procedure, program, technique, or device constitutes a practical alternate agricultural practice to the open burning of field or turf grasses grown for seed, the department shall, by order, certify approval of such alternate. Thereafter, in any case which any such approved alternate is reasonably available, the open burning of field and turf grasses grown for seed shall be disallowed and no permit shall issue therefor.

(3) Until approved alternates become available, the department

or the authority may limit the number of acres on a pro rata basis among those affected for which permits to burn will be issued in order to effectively control emissions from this source.

(4) Permits issued for burning of field and turf grasses may be conditioned to minimize emissions insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions.

NEW SECTION. Sec. 8. There is added to chapter 70.94 RCW a new section to read as follows:

Except as provided in sections 9 and 10 of this 1973 amendatory act, nothing in this chapter or in regulations implementing this chapter shall prevent a resident of a single family residence from burning wood, so long as it has not been treated by an application of prohibitive material or substances, and natural vegetation in the course of maintaining or improving the grounds of such residence: PROVIDED, That the department of ecology or board of any authority may set conditions for such burning so as to reduce the impact on air quality.

NEW SECTION. Sec. 9. There is added to chapter 70.94 RCW a new section to read as follows:

No person shall cause or allow any outdoor fire:

(1) Containing garbage, dead animals, asphalt, petroleum products, paints, rubber products, plastics, or any substance other than natural vegetation which normally emits dense smoke or obnoxious odors except as provided in RCW 70.94.650: PROVIDED, That agricultural heating devices which otherwise meet the requirements of this chapter shall not be considered outdoor fires under this section.

(2) During a forecast, alert, warning or emergency condition as defined in RCW 70.94.715;

(3) In any area which has been designated by the department of ecology or board of an activated authority as an area exceeding or threatening to exceed state or federal ambient air quality standards or, after July 1, 1976, state ambient air quality goals for particulates.

NEW SECTION. Sec. 10. There is added to chapter 70.94 RCW a new section to read as follows:

In addition to any other powers granted to them by law, the fire protection agency authorized to issue burning permits may regulate or prohibit outdoor burning in order to prevent or abate the nuisances caused by such burning.

NEW SECTION. Sec. 11. Notwithstanding any provision of the law to the contrary, except RCW 70.94.660 through 70.94.690, the department of ecology, upon its approval of any plan (or part thereof) required or permitted under the federal clean air act, shall

have the authority to enforce all regulatory provisions within such plan (or part thereof): PROVIDED, That departmental enforcement of any such provision which is within the power of an activated authority to enforce shall be initiated only, when with respect to any source, the authority is not enforcing the provisions and then only after written notice is given the authority.

NEW SECTION. Sec. 12. The following acts or parts of acts are each hereby repealed:

- (1) Section 5, chapter 232, Laws of 1957 and RCW 70.94.050;
- (2) Section 47, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.520;
- (3) Section 48, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.530;
- (4) Section 49, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.540;
- (5) Section 50, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.550; and
- (6) Section 51, chapter 168, Laws of 1969 ex. sess. and RCW 70.94.560.

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CHAPTER 194

[Substitute House Bill No. 1060]

PROPERTY TAX LEVY LIMITATION--

ONE PER CENT OF VALUE--

PORT, UTILITY DISTRICTS EXCLUDED

AN ACT Relating to revenue and taxation; amending section 4, chapter 8, Laws of 1970 ex. sess. as last amended by section 1, chapter 2, Laws of 1973 (Initiative Measure No. 44) and RCW 84.52.050; and declaring an emergency.

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

Section 1. Section 4, chapter 8, Laws of 1970 ex. sess. as last amended by section 1, chapter 2, Laws of 1973 (Initiative Measure No. 44) and RCW 84.52.050 are each amended to read as follows:

Except as hereinafter provided, the aggregate of all tax levies upon real and personal property by the state((, municipal corporations)) and all taxing districts ((and governmental agencies)), now existing or hereafter created, shall not in any year