

CHAPTER 405

[Engrossed Second Substitute House Bill No. 16]

WOOD STOVES

AN ACT Relating to wood stoves; amending RCW 70.94.331, 70.94.380, and 82.32.210; adding new sections to chapter 70.94 RCW; creating a new section; and repealing RCW 70.94.770.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. In the interest of the public health and welfare and in keeping with the objectives of RCW 70.94.011, the legislature declares it to be the public policy of the state to control, reduce, and prevent air pollution caused by wood stove emissions. It is the state's policy to reduce wood stove emissions by encouraging the department of ecology to continue efforts to educate the public about the effects of wood stove emissions, other heating alternatives, and the desirability of achieving better emission performance and heating efficiency from wood stoves. The legislature further declares that: (1) The purchase of certified wood stoves will not solve the problem of pollution caused by wood stove emissions; and (2) the reduction of air pollution caused by wood stove emissions will only occur when wood stove users adopt proper methods of wood burning.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 2 through 12 of this act:

(1) "Department" means the department of ecology.

(2) "Wood stove" means a solid fuel burning device other than a fireplace not meeting the requirements of section 4 of this act, including any fireplace insert, wood stove, wood burning heater, wood stick boiler, coal-fired furnace, coal stove, or similar device burning any solid fuel used for aesthetic or space-heating purposes in a private residence or commercial establishment, which has a heat input less than one million British thermal units per hour. The term "wood stove" does not include wood cook stoves.

(3) "Fireplace" means: (a) Any permanently installed masonry fireplace; or (b) any factory-built metal solid fuel burning device designed to be used with an open combustion chamber and without features to control the air to fuel ratio.

(4) "New wood stove" means: (a) A wood stove that is sold at retail, bargained, exchanged, or given away for the first time by the manufacturer, the manufacturer's dealer or agency, or a retailer; and (b) has not been so used to have become what is commonly known as "second hand" within the ordinary meaning of that term.

(5) "Solid fuel burning device" means any device for burning wood, coal, or any other nongaseous and nonliquid fuel, including a wood stove and fireplace.

(6) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(7) "Opacity" means the degree to which an object seen through a plume is obscured, stated as a percentage. The methods approved by the department in accordance with RCW 70.94.331 shall be used to establish opacity for the purposes of this chapter.

NEW SECTION. Sec. 3. The department of ecology shall establish a program to educate wood stove dealers and the public about:

- (1) The effects of wood stove emissions on health and air quality;
- (2) Methods of achieving better efficiency and emission performance from wood stoves;
- (3) Wood stoves that have been approved by the department;
- (4) The benefits of replacing inefficient wood stoves with stoves approved under section 4 of this act.

NEW SECTION. Sec. 4. Before January 1, 1988, the department of ecology shall establish by rule under chapter 34.04 RCW:

(1) State-wide emission performance standards for new wood stoves. Notwithstanding any other provision of this chapter which allows an authority to adopt more stringent emission standards, no authority shall adopt any emission standard for new wood stoves other than the state-wide standard adopted by the department under this section.

(a) For new wood stoves sold after July 1, 1988, the state-wide performance standard, by rule, shall be the equivalent of and consistent with state-wide emission standards in effect in bordering states on or before January 1, 1987. For solid fuel burning devices for which bordering states have not established emission standards, the department may temporarily exempt or establish, by rule, state-wide standards including emission levels and test procedures for such devices and such emission levels and test procedures shall be equivalent to emission levels per pound per hour burned for other new wood stoves regulated by this subsection.

(b) Notwithstanding (a) of this subsection, the department is authorized to adopt, by rule, emission standards adopted by the United States environmental protection agency for new wood stoves sold at retail. For solid fuel burning devices for which the United States environmental protection agency has not established emission standards, the department may temporarily exempt or establish, by rule, state-wide standards including emission levels and test procedures for such devices and such emission levels and test procedures shall be equivalent to emission levels per pound per hour burned for other new wood stoves regulated under this subsection.

(2) A program to:

(a) Determine whether a new wood stove complies with the state-wide emission performance standards established in subsection (1) of this section; and

(b) Approve the sale of stoves that comply with the state-wide emission performance standards.

NEW SECTION. Sec. 5. (1) Before January 1, 1988, the department shall establish, by rule under chapter 34.04 RCW, state-wide opacity levels for residential solid fuel burning devices as follows:

(a) A state-wide opacity level of twenty percent for the purpose of public education;

(b) Until July 1, 1990, a state-wide opacity level of forty percent for the purpose of enforcement on a complaint basis; and

(c) After July 1, 1990, a state-wide opacity level of twenty percent for the purpose of enforcement on a complaint basis.

(2) Notwithstanding any other provision of this chapter which may allow an authority to adopt a more stringent opacity level, no authority shall adopt or enforce an opacity level:

(a) Lower than forty percent until July 1, 1990; and

(b) Lower than twenty percent after July 1, 1990.

NEW SECTION. Sec. 6. Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

(1) Not burn wood in any solid fuel heating device whenever the department has determined under RCW 70.94.715 that any air pollution episode exists in that area;

(2) Not burn wood in any solid fuel heating device, except wood stoves which meet the standards set forth in section 4 of this act, in the geographical area and for the period of time that impaired air quality has been determined, by the department or any authority, for that area. For the purposes of this section, impaired air quality shall mean air contaminant concentrations nearing unhealthful levels concurrent with meteorological conditions that are conducive to an accumulation of air contamination. If, after July 1, 1990, the department determines that there is quantitative evidence that wood stoves meeting the requirements of section 4 of this act are contributing to impaired air quality, the department or any authority may prohibit burning of all solid fuel burning devices as provided by this section including those meeting the requirements of section 4 of this act.

NEW SECTION. Sec. 7. After July 1, 1988, no person shall sell, offer to sell, or knowingly advertise to sell a new wood stove in this state unless the wood stove has been approved by the department under the program established under section 4 of this act.

NEW SECTION. Sec. 8. After July 1, 1988, any person who sells, offers to sell, or knowingly advertises to sell a new wood stove in this state in violation of section 7 of this act shall be subject to the penalties and enforcement actions under this chapter.

NEW SECTION. Sec. 9. Unless allowed by rule, under chapter 34.04 RCW, a person shall not cause or allow any of the following materials to be burned in any residential solid fuel burning device:

- (1) Garbage;
- (2) Treated wood;
- (3) Plastics;
- (4) Rubber products;
- (5) Animals;
- (6) Asphaltic products;
- (7) Waste petroleum products;
- (8) Paints; or
- (9) Any substance, other than properly seasoned fuel wood, which normally emits dense smoke or obnoxious odors.

NEW SECTION. Sec. 10. (1) The wood stove education account is hereby created in the general fund. Money placed in the account shall include all money received under subsection (2) of this section and any other money appropriated by the legislature. Money in the account shall be spent for the purposes of the wood stove education program established under section 3 of this act and shall be subject to legislative appropriation.

(2) The department of ecology, with the advice of the advisory committee, shall set a flat fee, not to exceed five dollars, on the retail sale, as defined in RCW 82.04.050, of each solid fuel burning device, excepting masonry fireplaces, after January 1, 1988. The fee shall be imposed upon the consumer and shall not be subject to the retail sales tax provisions of chapters 82.08 and 82.12 RCW. The fee may be adjusted annually above five dollars according to changes in the consumer price index after January 1, 1989. The fee shall be collected by the department of revenue in conjunction with the retail sales tax under chapter 82.08 RCW. If the seller fails to collect the fee herein imposed or fails to remit the fee to the department of revenue in the manner prescribed in chapter 82.08 RCW, the seller shall be personally liable to the state for the amount of the fee. The collection provisions of chapter 82.32 RCW shall apply. The department of revenue shall transmit the moneys to the wood stove education account.

NEW SECTION. Sec. 11. The department shall establish an advisory committee to participate in the development of rules regulating wood stoves, the design and implementation of the public education program under section 3 of this act, and in establishing the fee and budget for the public education program. This committee shall include, but not be limited to, representatives of the wood and coal heating industry, environmental groups, concerned citizens, the chimney cleaning industry, and affected government agencies.

NEW SECTION. Sec. 12. Nothing in section 7 or 8 of this act shall apply to a radio station, television station, publisher, printer, or distributor

of a newspaper, magazine, billboard, or other advertising medium that accepts advertising in good faith and without knowledge of its violation of sections 2 through 12 of this act.

Sec. 13. Section 46, chapter 238, Laws of 1967 as last amended by section 4, chapter 372, Laws of 1985 and RCW 70.94.331 are each amended to read as follows:

(1) The state board shall have all the powers as provided in RCW 70.94.141.

(2) The state board, in addition to any other powers vested in it by law after consideration at a public hearing held in accordance with chapter ~~(42.32)~~ 42.30 RCW and chapter 34.04 RCW shall:

(a) Adopt rules and regulations establishing air quality objectives and air quality standards;

(b) Adopt emission standards which shall constitute minimum emission standards throughout the state. An authority may enact more stringent emission standards, except for emission performance standards for new wood stoves and opacity levels for residential solid fuel burning devices which shall be state-wide, but in no event may less stringent standards be enacted by an authority without the prior approval of the state board after public hearing and due notice to interested parties;

(c) Adopt by rule and regulation air quality standards and emission standards for the control or prohibition of emissions to the outdoor atmosphere of radionuclides, dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof. Such requirements may be based upon a system of classification by types of emissions or types of sources of emissions, or combinations thereof, which it determines most feasible for the purposes of this chapter.

(3) The air quality standards and emission standards may be for the state as a whole or may vary from area to area, except that emission performance standards for new wood stoves and opacity levels for residential solid fuel burning devices shall be state-wide, as may be appropriate to facilitate the accomplishment of the objectives of this chapter and to take necessary or desirable account of varying local conditions of population concentration, the existence of actual or reasonable foreseeable air pollution, topographic and meteorologic conditions and other pertinent variables.

(4) The state board is directed to cooperate with the appropriate agencies of the United States or other states or any interstate agencies or international agencies with respect to the control of air pollution and air contamination, or for the formulation for the submission to the legislature of interstate air pollution control compacts or agreements.

(5) The state board is directed to conduct or cause to be conducted a continuous surveillance program to monitor the quality of the ambient atmosphere as to concentrations and movements of air contaminants.

(6) The state board shall enforce the air quality standards and emission standards throughout the state except where a local authority is enforcing the state regulations or its own regulations which are more stringent than those of the state.

(7) The state board shall encourage local units of government to handle air pollution problems within their respective jurisdictions; and, on a cooperative basis provide technical and consultative assistance therefor.

(8) The state board shall have the power to require the addition to or deletion of a county from an existing authority in order to carry out the purposes of this chapter: PROVIDED, HOWEVER, That no such addition or deletion shall be made without the concurrence of any existing authority involved. Such action shall only be taken after a public hearing held pursuant to the provisions of chapter 34.04 RCW.

Sec. 14. Section 50, chapter 238, Laws of 1967 as last amended by section 13, chapter 30, Laws of 1979 ex. sess. and RCW 70.94.380 are each amended to read as follows:

(1) Every activated authority operating an air pollution control program shall have requirements for the control of emissions which are no less stringent than those adopted by the department of ecology for the geographic area in which such air pollution control program is located. Less stringent requirements than compelled by this section may be included in a local or regional air pollution control program only after approval by the department of ecology following demonstration to the satisfaction of the department of ecology that the proposed requirements are consistent with the purposes of this chapter: PROVIDED, That such approval shall be preceded by public hearing, of which notice has been given in accordance with chapter ~~((42.32))~~ 42.30 RCW. The department of ecology, upon receiving evidence that conditions have changed or that additional information is relevant to a decision with respect to the requirements for emission control, may, after public hearing on due notice, withdraw any approval previously given to a less stringent local or regional requirement.

Nothing in this chapter shall be construed to prevent a local or regional air pollution control authority from adopting and enforcing more stringent emission control requirements than those adopted by the department of ecology and applicable within the jurisdiction of the local or regional air pollution control authority, except that the emission performance standards for new wood stoves and the opacity levels for residential solid fuel burning devices shall be state-wide.

Sec. 15. Section 82.32.210, chapter 15, Laws of 1961 as last amended by section 8, chapter 55, Laws of 1983 1st ex. sess. and RCW 82.32.210 are each amended to read as follows:

If any fee, tax, increase, or penalty or any portion thereof is not paid within fifteen days after it becomes due, the department of revenue may issue a warrant under its official seal in the amount of such unpaid sums, together with interest thereon at the rate of one percent of the amount of such warrant for each thirty days or portion thereof after the date of such warrant. If, however, the department of revenue believes that a taxpayer is about to cease business, leave the state, or remove or dissipate the assets out of which fees, taxes or penalties might be satisfied and that any tax or penalty will not be paid when due, it may declare the fee, tax or penalty to be immediately due and payable and may issue a warrant immediately.

The department shall file a copy of the warrant with the clerk of the superior court of any county of the state in which real and/or personal property of the taxpayer may be found. Upon filing, the clerk shall enter in the judgment docket, the name of the taxpayer mentioned in the warrant and in appropriate columns the amount of the fee, tax or portion thereof and any increases and penalties for which the warrant is issued and the date when the copy is filed, and thereupon the amount of the warrant so docketed shall become a specific lien upon all goods, wares, merchandise, fixtures, equipment, or other personal property used in the conduct of the business of the taxpayer against whom the warrant is issued, including property owned by third persons who have a beneficial interest, direct or indirect, in the operation of the business, and no sale or transfer of the personal property in any way affects the lien. The lien shall not be superior, however, to bona fide interests of third persons which had vested prior to the filing of the warrant when the third persons do not have a beneficial interest, direct or indirect, in the operation of the business, other than the securing of the payment of a debt or the receiving of a regular rental on equipment: PROVIDED, HOWEVER, That the phrase "bona fide interests of third persons" does not include any mortgage of real or personal property or any other credit transaction that results in the mortgagee or the holder of the security acting as trustee for unsecured creditors of the taxpayer mentioned in the warrant who executed the chattel or real property mortgage or the document evidencing the credit transaction. The amount of the warrant so docketed shall thereupon also become a lien upon the title to and interest in all other real and personal property of the taxpayer against whom it is issued the same as a judgment in a civil case duly docketed in the office of the clerk. The warrant so docketed shall be sufficient to support the issuance of writs of garnishment in favor of the state in the manner provided by law in the case of judgments wholly or partially unsatisfied.

NEW SECTION. Sec. 16. Section 8, chapter 193, Laws of 1973 1st ex. sess. and RCW 70.94.770 are each repealed.

NEW SECTION. Sec. 17. Sections 2 through 12 of this act are each added to chapter 70.94 RCW.

NEW SECTION. Sec. 18. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 20, 1987.

Passed the Senate April 8, 1987.

Approved by the Governor May 18, 1987.

Filed in Office of Secretary of State May 18, 1987.

CHAPTER 406

[Substitute House Bill No. 646]

ALCOHOLISM AND DRUG ADDICTION TREATMENT AND SUPPORT ACT

AN ACT Relating to alcoholism and drug addiction treatment and shelter and general assistance—unemployable; amending RCW 74.04.005, 74.08.280, 74.09.010, and 74.09.035; and adding a new chapter to Title 74 RCW.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. This chapter may be cited as the alcoholism and drug addiction treatment and support act.

NEW SECTION. Sec. 2. The legislature finds:

- (1) There is a need for reevaluation of state policies and programs regarding indigent alcoholics and drug addicts;
- (2) The practice of providing a cash grant may be causing rapid case-load growth and attracting transients to the state;
- (3) Many chronic public inebriates have been recycled through county detoxification centers repeatedly without apparent improvement;
- (4) The assumption that all individuals will recover through treatment has not been substantiated;
- (5) The state must modify its policies and programs for alcoholics and drug addicts and redirect its resources in the interests of these individuals, the community, and the taxpayers;
- (6) Treatment resources should be focused on persons willing to commit to rehabilitation; and
- (7) Shelter assistance is an essential service necessary to prevent homelessness and meet the basic needs of indigent alcoholics and drug addicts.

NEW SECTION. Sec. 3. Persons who are incapacitated from gainful employment due to alcoholism or drug addiction and who meet the eligibility requirements as established by rule by the department are eligible for special substance abuse programs as provided under this chapter. Eligible alcoholics and drug addicts shall have their needs addressed by the programs offered by the department of social and health services under this chapter and chapters 69.54 and 70.96A RCW.