

(5) The commission shall exercise its powers to provide fair and effective representation and to encourage electoral competition. The commission's plan shall not be drawn purposely to favor or discriminate against any political party or group.

Passed the House March 7, 1990.

Passed the Senate March 6, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 127

[Senate Bill No. 6577]

RECYCLING MARKETS COMMITTEE

AN ACT Relating to the committee for recycling markets; and amending RCW 43.31.556.

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

Sec. 1. Section 102, chapter 431, Laws of 1989 and RCW 43.31.556 are each amended to read as follows:

The committee may enter into contracts to assist in its responsibilities(~~(, provided that the state funds for such contracts are matched by at least an equal amount from private sources)~~). The committee shall endeavor to ensure that state funds are matched by private funds or in-kind services. The committee shall provide a report to the legislature on or before January 2, 1990, and a final report on or before November 30, 1990(~~(, and its duties shall be terminated upon delivery of the final report)~~). The committee shall terminate on June 30, 1991.

Passed the Senate March 5, 1990.

Passed the House February 26, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 128

[Substitute Senate Bill No. 6698]

SOLID FUEL BURNING DEVICES—LIMITS ON USE

AN ACT Relating to limitations on the use of solid fuel burning devices; extending the impaired air quality exemption for certified solid fuel burning devices; and authorizing local air quality authorities to impose fees on the sale of new solid fuel burning devices; amending RCW 70.94.473, 70.94.477, 70.94.715, 70.94.483, and 70.94.480; and adding a new section to chapter 70.94 RCW.

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

****NEW SECTION. Sec. 1. A new section is added to chapter 70.94 RCW to read as follows:***

The joint select task force on clean air established by chapter (En-grossed Substitute House Bill No. 2277), Laws of 1990, has the authority, in addition to all other powers granted the task force, to:

- (1) Review the implementation of this act;*
- (2) Review and make recommendations regarding state policies regarding the sale and use of residential solid fuel burning devices; and*
- (3) Review and recommend strategies to further advance technology to reduce contaminants from residential solid fuel burning devices, including but not limited to pellet fuel burning devices.*

*Sec. 1 was vetoed, see message at end of chapter.

Sec. 2. Section 6, chapter 405, Laws of 1987 and RCW 70.94.473 are each amended to read as follows:

(1) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

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

~~((2))~~ (b) Not burn wood in any solid fuel ~~((heating))~~ burning device~~(:)~~ except ~~((wood-stoves))~~ those which meet the standards set forth in RCW 70.94.457, or a pellet stove either certified or issued an exemption certificate by the United States environmental protection agency in accordance with title 40, Part 60 of the code of federal regulations, in the geographical area and for the period of time that a first stage of 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 RCW 70.94.457 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 RCW 70.94-457.)) A first stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of seventy-five micrograms per cubic meter measured on a twenty-four hour average or when carbon monoxide is at an ambient level of eight parts of contaminant per million parts of air by volume measured on an eight-hour average; and

(c) Not burn wood in any solid fuel burning device, including those which meet the standards set forth in RCW 70.94.457, in a geographical area and for the period of time that a second stage of impaired air quality has been determined by the department or any authority, for that area. A second stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of one hundred five micrograms per cubic meter measured on a twenty-four hour average.

(2) When a local air authority exercises the limitation on solid fuel burning devices specified under RCW 70.94.477(2), a single stage of impaired air quality applies in the geographical area defined by the authority in accordance with RCW 70.94.477(2) and is reached when particulates ten microns and smaller in diameter are at an ambient level of ninety micrograms per cubic meter measured on a twenty-four hour average or when carbon monoxide is at an ambient level of eight parts of contaminant per million parts of air by volume measured on an eight-hour average.

When this single stage of impaired air quality is reached, no person in a residence or commercial establishment which has an adequate source of heat without burning wood shall burn wood in any solid fuel burning device, including those which meet the standards set forth in RCW 70.94.457.

Sec. 3. Section 9, chapter 405, Laws of 1987 and RCW 70.94.477 are each amended to read as follows:

(1) Unless allowed by rule, under chapter 34.05 RCW, a person shall not cause or allow any of the following materials to be burned in any residential solid fuel burning device:

- ((1)) (a) Garbage;
- ((2)) (b) Treated wood;
- ((3)) (c) Plastics;
- ((4)) (d) Rubber products;
- ((5)) (e) Animals;
- ((6)) (f) Asphaltic products;
- ((7)) (g) Waste petroleum products;
- ((8)) (h) Paints; or

((9)) (i) Any substance, other than properly seasoned fuel wood, which normally emits dense smoke or obnoxious odors.

(2) On or after July 1, 1995, a local authority may geographically limit the use of solid fuel burning devices, except fireplaces as defined in RCW 70.94.453(3), wood stoves meeting the standards set forth in RCW 70.94.457 or pellet stoves issued an exemption certificate by the United States environmental protection agency in accordance with Title 40, part 60 of the code of federal regulations. An authority shall allow an exemption from this subsection for low-income persons who reside in a geographical area affected by this subsection. In the exercise of this limitation, a local authority shall consider the following factors:

(a) The contribution of solid fuel burning devices that do not meet the standards set forth in RCW 70.94.457 to nonattainment of national ambient air quality standards;

(b) The population density of geographical areas within the local authority's jurisdiction giving greater consideration to urbanized areas; and

(c) The public health effects of use of solid fuel burning devices which do not meet the standards set forth in RCW 70.94.457.

Sec. 4. Section 2, chapter 194, Laws of 1971 ex. sess. and RCW 70.94.715 are each amended to read as follows:

The department of ecology is hereby authorized to develop an episode avoidance plan providing for the phased reduction of emissions wherever and whenever an air pollution episode is forecast. Such an episode avoidance plan shall conform with any applicable federal standards and shall be effective state-wide. The episode avoidance plan may be implemented on an area basis in accordance with the occurrence of air pollution episodes in any given area.

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

The episode avoidance plan, which shall be established by regulation in accordance with chapter 34.05 RCW, shall include, but not be limited to the following:

(1) The designation of episode criteria and stages, the occurrence of which will require the carrying out of preplanned episode avoidance procedures. The stages of occurrence shall be (a) forecast, (b) alert, (c) warning, (d) emergency, and such intermediate stages as the department shall designate. "Forecast" means the presence of meteorological conditions that are conducive to accumulation of air contaminants and is the first stage of an episode. The department shall not call a forecast episode prior to the department or an authority calling a first stage impaired air quality condition as provided by RCW 70.94.473(1)(b) or calling a single-stage impaired air quality condition as provided by RCW 70.94.473(2). "Alert" means concentration of air contaminants at levels at which short-term health effects may occur, and is the second stage of an episode. "Warning" means concentrations are continuing to degrade, contaminant concentrations have reached a level which, if maintained, can result in damage to health, and additional control actions are needed and is the third level of an episode. "Emergency" means the air quality is posing an imminent and substantial endangerment to public health and is the fourth level of an episode;

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

(3) Provision for the director of the department of ecology or his authorized representative, or the air pollution control officer if implementation has been delegated, on the satisfaction of applicable criteria, to declare and terminate the forecast, alert, warning and all intermediate stages, up to the

warning episode stage, such declarations constituting orders for action in accordance with applicable source emission reduction plans;

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

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

(6) Provisions for reduction or discontinuance of emissions immediately, consistent with good operating practice and safe operating procedures, under an air pollution emergency as provided in RCW 70.94.720.

Source emission reduction plans shall be considered orders of the department and shall be subject to appeal to the pollution control hearings board according to the procedure in chapter 43.21B RCW.

Sec. 5. Section 10, chapter 405, Laws of 1987 and RCW 70.94.483 are each amended to read as follows:

(1) The wood stove education and enforcement 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 RCW 70.94.480 and for enforcement of the wood stove program, 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))~~ fifteen 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))~~ fifteen 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))~~ deposit fees collected under this section in the wood stove education and enforcement account.

Sec. 6. Section 3, chapter 405, Laws of 1987 and RCW 70.94.480 are each amended to read as follows:

(1) The department of ecology shall establish a program to educate wood stove dealers and the public about:

~~((+))~~ (a) The effects of wood stove emissions on health and air quality;

~~((2))~~ (b) Methods of achieving better efficiency and emission performance from wood stoves;

~~((3))~~ (c) Wood stoves that have been approved by the department;

~~((4))~~ (d) The benefits of replacing inefficient wood stoves with stoves approved under RCW 70.94.457.

(2) Persons selling new wood stoves shall distribute and verbally explain educational materials describing when a stove can and cannot be legally used to customers purchasing new wood stoves.

Passed the Senate March 5, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 21, 1990, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 21, 1990.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1, Substitute Senate Bill No. 6698, entitled:

"AN ACT Relating to limitations on the use of solid fuel burning devices."

Section 1 of this bill makes reference to Engrossed Substitute House Bill No. 2277, which would have set up a joint select task force on clean air. Engrossed Substitute House Bill No. 2277 did not pass the Legislature. Section 1 of Substitute Senate Bill No. 6698 charges the task force with reviewing implementation of this bill. Since the task force does not exist, I have vetoed section 1.

With the exception of section 1, Substitute Senate Bill No. 6698 is approved."

CHAPTER 129

[House Bill No. 2288]

PUBLIC WORKS PROJECTS—APPROPRIATIONS

AN ACT Relating to appropriations for projects recommended by the public works board; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. Pursuant to chapter 43.155 RCW, the following project loans recommended by the public works board are authorized to be made with funds previously appropriated from the public works assistance account:

(1) City of Airway Heights—Road project—Reconstruction of existing residential and light commercial access roadways \$900,000

(2) City of Anacortes—Sewer project—Replace 4,800 L.F. of deteriorated sewer pipes \$308,700

(3) City of Battle Ground—Sanitary sewer project—Converting the existing aerobic lagoon into a detention/equalization basin, construction of a triplex pumping station, and 49,000 feet of transmission line . . . \$500,000