

**ALASKA STATE LEGISLATURE**  
**HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

March 21, 2013

8:08 a.m.

**MEMBERS PRESENT**

Representative Gabrielle LeDoux, Co-Chair  
Representative Benjamin Nageak, Co-Chair  
Representative Neal Foster  
Representative Lora Reinbold  
Representative Harriet Drummond

**MEMBERS ABSENT**

Representative Bob Herron  
Representative Kurt Olson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 163

"An Act prohibiting a person from burning certain materials in a solid fuel burning device; relating to solid fuel burning device emission standards; and relating to prohibitions on the burning of solid fuels."

- MOVED HB 163 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 163

SHORT TITLE: REGULATION OF SOLID FUEL BURNING DEVICES

SPONSOR(S): REPRESENTATIVE(S) T.WILSON

03/11/13	(H)	READ THE FIRST TIME - REFERRALS
03/11/13	(H)	CRA, RES
03/21/13	(H)	CRA AT 8:00 AM BARNES 124

**WITNESS REGISTER**

REPRESENTATIVE T. WILSON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Spoke as the sponsor of HB 163.

BRANDON BREFCZYNSKI, Staff  
Representative Tammie Wilson

Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** On behalf of the sponsor, presented the sectional analysis for HB 163.

**ACTION NARRATIVE**

[8:08:27 AM](#)

**CO-CHAIR GABRIELLE LEDOUX** called the House Community and Regional Affairs Standing Committee meeting to order at 8:08 a.m. Representatives Reinbold, Drummond, Nageak, and LeDoux were present at the call to order. Representative Foster arrived as the meeting was in progress.

**HB 163-REGULATION OF SOLID FUEL BURNING DEVICES**

[8:08:53 AM](#)

CO-CHAIR LEDOUX announced that the only order of business would be HOUSE BILL NO. 163, "An Act prohibiting a person from burning certain materials in a solid fuel burning device; relating to solid fuel burning device emission standards; and relating to prohibitions on the burning of solid fuels."

[8:09:11 AM](#)

REPRESENTATIVE T. WILSON, Alaska State Legislature, paraphrased from the following sponsor statement [original punctuation provided]:

House Bill 163 will establish a new emission standard for solid fuel burning devices within the State by allowing only the cleanest burning devices to be sold at local retail stores. Those who have a solid fuel device currently installed are grandfathered under the new emission standard and would not need to convert their device.

Currently, a [Particulate Matter] PM 2.5 nonattainment area has been designated by the U.S. Environmental Protection Agency [EPA] within the Fairbanks North Star Borough. During the winter months, air quality status can reach unhealthy levels for many of the people who reside within the nonattainment area.

HB 163 ensures the most efficient EPA certified appliances are installed as homeowners naturally upgrade their units, saving Alaskans money by reducing the cost of space heat. Additionally, by installing the best technology, air quality at a neighborhood and regional level will also improve. This is important for the overall health of the communities and for achieving federal attainment with EPA. Finally, HB 163 guarantees an individual's right to use a solid fuel burning device in accordance with their budget and local and state law.

The consequences of not reaching EPA PM 2.5 attainment status stretch beyond health concerns. If attainment is not reached by 2014, the EPA could sanction the state of Alaska by withholding Federal highway funds amounting in the millions of dollars. This would prevent many of Alaska's roads and transportation infrastructure from being constructed or upgraded. HB 163 is a proactive, statewide bill and will hopefully prevent additional communities from becoming a PM 2.5 non-attainment area.

House Bill 163 will be another tool to avoid EPA sanctions, while also improving energy efficiency and the health of Alaska's residents.

[8:11:40 AM](#)

BRANDON BREFCZYNSKI, Staff, Representative Tammie Wilson, Alaska State Legislature, paraphrased from the following sectional analysis [original punctuation provided]:

**Section 1:** Provides limitation of burn bans for certain municipal air quality control programs.

**Section 2:** Adds new subsection under 46.14.400 prohibiting second or third class boroughs or a second class city from implementing solid fuel burning bans unless authorized by the governor in case of an emergency.

**Section 3:** (a) Prohibits the burning of certain materials. (b) A person may not sell a solid fuel burning device that exceeds the emission standard established by the Department of Environmental Conservation (DEC). (c) Establishes statewide

particulate emission standards for solid fuel burning devices of 2.5 grams per hour for each 200,000 [British Thermal Units] BTUs of heat output. Provides DEC with a procedure for adopting a new emission standard. **(d)** Establishes a procedure for approving the sale of a new solid fuel burning device that complies with the particulate emission standard. **(e)** A state or local authority may not adopt a particulate emission standard different than provided in (c). **(f)** Clarifying that the device standard is not a limitation for hazardous air pollution or an emission standard for a stationary source.

[8:13:26 AM](#)

REPRESENTATIVE T. WILSON noted that HB 163 isn't establishing new regulations. She then directed attention to the committee packet that includes a list of EPA certified stoves, of which 224 would emit below the 2 grams/hour [of particulate matter]. Of the outdoor boiler type, 10 of the 36 would currently qualify. The committee packet also includes a letter from the EPA that states the use of cleaner devices results in cleaner burn cycles. She explained that in the Fairbanks North Star Borough area people are rising at about the same time every day and start their wood stove to have heat and with very little air movement, the air shed is filled. Even if there is air movement during the day, most folks return home close to the same time and restart their fire [which again fills the air shed]. Therefore, lowering the emissions of these stoves [is helpful] for lowering the emissions at the beginning [when people start fires]. Lastly, Representative T. Wilson related her belief that the inspection and maintenance (I/M) program isn't what helped Fairbanks reach attainment but rather it was technology, specifically the catalytic converters placed in automobiles. Representative T. Wilson explained that Fairbanks is trying to be proactive with the use of cleaner devices. She informed the committee that approximately 73 percent of [heating stoves] already have emissions of 2 grams/hour [of particulate matter] or lower while 25 percent have emissions that are higher than 2 grams/hour. The aforementioned is possible because the certified wood stove list includes wood stoves with emissions of 7.5 grams/hour, which would likely be okay with wind but the valley geography holds the smoke. This legislation provides an easy way to achieve attainment without a burn ban or fines and is a step in the right direction toward attainment.

[8:16:39 AM](#)

CO-CHAIR LEDOUX inquired as to why second and third class boroughs or cities are precluded from regulating without the permission of the governor in the event of an emergency declaration.

REPRESENTATIVE T. WILSON explained that the issue is with regard to burn bans and that second and third class boroughs and cities don't have police powers, while first class boroughs and cities do. Therefore, first class boroughs and cities have police powers to put forward and follow through with the regulations [for burn bans].

[8:17:22 AM](#)

REPRESENTATIVE REINBOLD opined that HB 163 is good legislation overall, but inquired as to the view of DEC and municipalities on HB 163. She then inquired as to why the legislation has an indeterminate fiscal note.

REPRESENTATIVE T. WILSON noted that she met with DEC yesterday and clarified that she doesn't intend to require a new regulatory status, rather the goal is to use the EPA's certified and qualified list as well as the borough's measures. Currently, DEC can lower the emissions, although the process is much more detailed and would take one to two years to do so. The borough doesn't have that length of time. Representative T. Wilson acknowledged that although ultimately gas will solve the issue in Fairbanks quicker, there will still be a large portion of the Fairbanks North Star Borough and the state that uses solid burning fuel devices. Therefore, the legislation only takes away [the authority to issue burn bans] from the second and [third] class boroughs [or second class cities].

REPRESENTATIVE REINBOLD inquired as to whether there is a penalty [for those using solid fuel burning devices]. She then asked whether the [local stores] have [the inventory to meet the demand]. She also asked whether it's expensive to change devices.

REPRESENTATIVE T. WILSON pointed out that residents with a solid fuel burning device are grandfathered in, and thus this legislation would only address those who upgrade.

[8:20:11 AM](#)

CO-CHAIR LEDOUX acknowledged that second and third class cities and boroughs enact ordinances and regulations, but don't have police powers. Since they don't have police powers, she understood that the state troopers do the follow up.

REPRESENTATIVE T. WILSON informed the committee that the state troopers do not take care of the ordinances in the Fairbanks North Star Borough. With regard to the zoning issues, letters are written. The City of Fairbanks has police powers, and therefore city police could issue a notice or fine. However, in a second or third class borough, only code enforcement officers would be available although they don't have the same powers as police. In further response to Co-Chair LeDoux, Representative T. Wilson explained that the City of Fairbanks is a first class home rule city and the Fairbanks North Star Borough is a second class borough with no police power. The legislation tries to distinguish between who has and who doesn't [have police powers]. Many of the state's boroughs decided to become a second class borough versus a first class borough because they didn't necessarily want the police powers, which is sometimes due to the cost and sometimes to the size of the borough.

CO-CHAIR LEDOUX inquired as to what sort of ordinances the Fairbanks North Star Borough promulgates. She further asked whether anything they do is enforceable since they don't have police powers.

REPRESENTATIVE T. WILSON related that the Fairbanks North Star Borough does have an animal control ordinance through which offenders are taken to court for dangerous animals. She recalled that it has been 15 years since [the borough] sued anyone over an ordinance. Currently, there is a citizens' initiative that doesn't allow this activity to happen.

[8:23:38 AM](#)

REPRESENTATIVE DRUMMOND opined that the capable citizens of the Fairbanks North Star Borough are capable of keeping their old wood stoves running for some time. Therefore, she inquired as to whether there has been analysis as to the result of not many of the old [solid fuel burning] stoves being replaced.

REPRESENTATIVE T. WILSON informed the committee that Fairbanks currently has a state grant for a wood stove change out program. She opined that changing the program to address wood stoves with emissions of over 2.5 grams/hour is more of an incentive. This legislation would help the borough because everyone would go to

the 2.5 grams/hour. The EPA wants to see as many permanent solutions in Fairbanks' state implementation plan as possible and this would qualify as such. Although the borough doesn't have modeling yet, there are things allowing the borough to get closer to the goal of residents purchasing cleaner stoves. In further response, Representative T. Wilson confirmed that [the aforementioned would be achieved] by limiting the stoves for sale to compliant stoves. She further confirmed that dealers don't sell non-EPA certified stoves, but they do sell stoves with emissions above 2.5 grams/hour that are EPA certified.

[8:27:31 AM](#)

CO-CHAIR LEDOUX, upon determining no one wished to testify, closed public testimony.

[8:28:10 AM](#)

CO-CHAIR NAGEAK moved to report HB 163 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 163 was reported from the House Community and Regional Affairs Standing Committee.

[8:28:30 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:28 a.m.