

SENATE BILL NO. 71
INTRODUCED BY G. BARKUS
BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DEFINITION OF "LOW EMISSION WOOD OR BIOMASS COMBUSTION DEVICE" WITH RESPECT TO ELIGIBILITY FOR AN INCOME TAX CREDIT; REMOVING THE DEPARTMENT OF ENVIRONMENTAL QUALITY'S RULEMAKING AUTHORITY FOR ESTABLISHING EMISSION TESTING AND EMISSION CERTIFICATION STANDARDS FOR LOW EMISSION WOOD OR BIOMASS COMBUSTION DEVICES; AMENDING SECTIONS 15-32-102 AND 15-32-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-32-102, MCA, is amended to read:

"15-32-102. Definitions. As used in this part, the following definitions apply:

(1) "Alternative energy system" means the generation system or equipment used to convert energy sources into usable sources using fuel cells that do not require hydrocarbon fuel, geothermal systems, low emission wood or biomass, wind, photovoltaics, geothermal, small hydropower plants under 1 megawatt, and other recognized nonfossil forms of energy generation.

(2) "Building" means:

- (a) a single or multiple dwelling, including a mobile home or manufactured home; or
- (b) a building used for commercial, industrial, or agricultural purposes that is enclosed with walls and a roof.

(3) "Capital investment" means any material or equipment purchased and installed in a building or land with or without improvements.

(4) "Energy conservation purpose" means one or both of the following results of an investment:

- (a) reducing the waste or dissipation of energy; or
- (b) reducing the amount of energy required to accomplish a given quantity of work.

(5) "Geothermal system" means a system that transfers energy either from the ground, by way of a closed loop, or from ground water, by way of an open loop, for the purpose of heating or cooling a residential building.

(6) "Low emission wood or biomass combustion device" means a ~~noncatalytic stove or furnace that~~ wood-burning appliance:

- ~~—— (a) (i) is specifically designed to burn wood pellets or other nonfossil biomass pellets; and~~
- ~~—— (ii) has a particulate emission rate of less than 4.1 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted by the department of environmental quality pursuant to 15-32-203; or~~
- ~~—— (iii) has an air-to-fuel ratio of 35 to 1 or greater when tested in conformance with the standard method for measuring the air-to-fuel ratio and minimum achievable burn rates for wood-fired appliances, as adopted by the department of environmental quality pursuant to 15-32-203; or~~
- ~~—— (b) burns wood or other nonfossil biomass and has a particulate emission rate of less than 4.1 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted by the department of environmental quality pursuant to 15-32-203.~~

(a) certified by the U.S. environmental protection agency pursuant to 40 CFR 60.533; or

(b) that uses wood pellets as its primary source of fuel and is manufactured after January 1, 2001.

(7) "Passive solar system" means a direct thermal energy system that uses the structure of a building and its operable components to provide heating or cooling during the appropriate times of the year by using the climate resources available at the site. It includes only those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy and that are not standard components of a conventional building.

(8) "Recognized nonfossil forms of energy generation" means:

(a) a system that captures energy or converts energy sources into usable sources, including electricity, by using:

- (i) solar energy, including passive solar systems;
- (ii) wind;
- (iii) solid waste;
- (iv) the decomposition of organic wastes;
- (v) geothermal;
- (vi) fuel cells that do not require hydrocarbon fuel; or
- (vii) an alternative energy system;
- (b) a system that produces electric power from biomass or solid wood wastes; or
- (c) a small system that uses water power by means of an impoundment that is not over 20 acres in

surface area."

Section 2. Section 15-32-203, MCA, is amended to read:

"15-32-203. Department to make rules. (1) The department of revenue shall prescribe rules necessary to carry out the purposes of this part.

~~(2) The department of environmental quality shall adopt rules establishing emission testing and emission certification standards for low emission wood or biomass combustion devices and shall maintain a list of the devices that are certified."~~

NEW SECTION. **Section 3. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 5. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2001.

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