Frank Lasee

WISCONSIN STATE SENATOR

FIRST SENATE DISTRICT

Senator Lasee's Testimony

Senate Committee on Natural Resources & Energy
Public Hearing, April 7, 2015

Senate Bill 23/Assembly Bill 25

I introduced this legislation with Representative Craig to ensure Wisconsin residents are not hindered by government from heating their homes with wood and Wisconsin businesses that manufacture and service wood stoves are not regulated out of existence.

The Federal EPA updated New Source Performance Standards (NSPS) for wood-burning stoves this February. The new rules set standards that make the overwhelming majority of wood stoves available on the market today non-compliant. Many experts believe this will effectively end the burning of wood for heat in the US and make it difficult or impossible for homebuilders or contractors to include wood-heating options when building new homes.

Since Wisconsin is among the top ten states for users of wood and wood-pellet stoves, it places a higher burden on our citizens and businesses. Following some of the coldest winters on record in the past 5 years, now is not the time to allow the federal government to make heating our homes more difficult and more expensive.

This bill is simple. It takes a snapshot of current regulation regarding wood stove emissions and holds them in place until the technology to meet the new standards becomes less burdensome and cost-prohibitive. This would effectively prohibit the DNR from enforcing the EPA's updated New Source Performance Standards for wood heaters in Wisconsin. If down the road the technology becomes more cost-effective, the legislature could allow the DNR to enforce higher standards.

Two other states – Michigan and Missouri – have passed similar legislation to protect their citizens from this onerous, over-reaching regulation. In discussions with the Wisconsin DNR and other industry leaders, it clear that Wisconsin, like these other two states, is no danger of losing its regulated authority to enforce Clean Air Act Standards. With more and more states acting on this issue, the EPA is beginning to realize that further examination of these rules is needed.

Congress has previously introduced a bill to block the rules taking effect. We do not need Wisconsin's DNR to jump to make any new rules if the EPA's new standards are going to be halted by Congress.

Chair: Committee on Insurance and Housing

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We need to send a clear message to federal regulators at the EPA that their actions will harm people in our state. This bill tells the EPA the impact to Wisconsin residents and businesses is real and is damaging, and it hits the pause button on new regulations. Please join me in supporting this legislation to protect the ability for Wisconsinites to use this affordable, alternative heat source.

State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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Testimony to the Wisconsin Senate Committee on Natural Resources and Energy
Senate Bill (SB) 23

By David Bizot
Chief, Wisconsin Department of Natural Resources, Bureau of Air Management,
Regional Pollutant and Mobile Sources Section

Thank you, Chairman Cowles and Committee members for the opportunity to provide testimony today. My name is David Bizot. I am the Chief of the Air Program's Regional Pollutants and Mobile Sources Section for the Department of Natural Resources (DNR). I am testifying for information only regarding SB 23. The bill under discussion today would prohibit DNR from promulgating a rule, or enforcing a federal regulation, that specifies a new source performance standard (NSPS) or other emission standard for residential or commercial wood heaters that is more stringent than any NSPS standard in effect on December 31, 2014.

The federal Clean Air Act requires the U.S. Environmental Protection Agency (EPA) to establish new source performance standards to limit emissions from categories of sources that cause or contribute significantly to air pollution that may endanger public health or welfare. An NSPS does not apply to any source or unit already in existence when EPA establishes the standard. For example, in this case the NSPS only applies to units manufactured or sold after certain future dates established by the rule.

In 1988, EPA established a NSPS for certain wood–burning appliances used for residential heating, commonly called residential wood stoves. On March 16, 2015, EPA finalized a rule that updates the NSPS to apply to more types of residential wood heaters and also makes the emission limits for these devices more stringent. The updated NSPS standards apply to manufacturers, retailers, and operators of the categories of wood heating devices subject to EPA's rule. The rule will not affect existing woodstoves and other wood-burning heaters currently in use in people's homes.

Current state law provides that, when EPA promulgates a NSPS standard, the DNR must promulgate by rule a NSPS standard, which must be no more restrictive than EPA's standard. For example, DNR promulgated a NSPS standard for residential wood stoves at s. NR 440.642, Wis. Adm. Code based on EPA's 1988 rule.

The bill under discussion today would prohibit DNR from promulgating a rule, or enforcing a federal regulation, that specifies a NSPS or other emission standard for residential or commercial wood heaters that is more stringent than any NSPS standard in effect on December 31, 2014. In effect, this would mean DNR would be prohibited from implementing or enforcing EPA's recently updated NSPS for these devices.

EPA has formally delegated to our state the authority to implement and enforce NSPS regulations. The terms of this delegation require the state to incorporate federal NSPSs into state rule before the state is given full enforcement responsibility. It is unknown how EPA might interpret this legislation in light of our delegation.

If the NSPS is not incorporated into the state administrative code, the NSPS would still apply to manufacturers, retailers, and operators of these devices because these standards are federal law and apply nationally. If DNR was prohibited by statute to implement and enforce this NSPS, EPA would retain that authority.

Thank you for the opportunity to provide information on SB 23. I would be happy to answer any questions you have at this time.