

## HOUSE BILL NO. 84

INTRODUCED BY S. GIST

BY REQUEST OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FIRE MANAGEMENT LAWS; ESTABLISHING THE PRESCRIBED FIRE MANAGER CERTIFICATION AND LIABILITY ACT; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; LIMITING THE LIABILITY OF CERTIFIED PRESCRIBED FIRE MANAGERS; PROVIDING FOR APPLICABILITY AND ENFORCEMENT OF THE ACT; REQUIRING A PERMIT BEFORE A PRESCRIBED FIRE MAY BE IGNITED OR SET; AMENDING SECTIONS 50-63-102, 50-63-103, 76-13-121, AND 76-13-122, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 6] may be cited as the "Prescribed Fire Manager Certification and Liability Act".

NEW SECTION. **Section 2. Purpose.** The purposes of [sections 1 through 6] are to establish a prescribed fire manager certification program and to establish a contingent liability standard.

NEW SECTION. **Section 3. Definitions.** For the purposes of [sections 1 through 6], the following definitions apply:

(1) "Certified prescribed fire manager" means a person who has successfully completed a prescribed fire manager certification program approved by the department and who is in good standing with the department.

(2) "Department" means the department of natural resources and conservation provided for in 2-15-3301.

(3) "Prescribed fire" means an intentionally set fire that meets specific predefined land management objectives and that is done under specific weather conditions, in accordance with applicable laws,

1 rules, and policies.

2

3 **NEW SECTION. Section 4. Prescribed fire manager certification program -- rulemaking.** (1) The  
4 department may create a prescribed fire manager certification program. The program must include training on  
5 all relevant aspects of prescribed fire in the state, including but not limited to the following:

6 (a) applicable laws and rules;

7 (b) safety planning and management;

8 (c) weather;

9 (d) prescribed fire behavior, complexity analysis, and techniques;

10 (e) smoke management;

11 (f) prescribed fire burn plan requirements and standards;

12 (g) public relations;

13 (h) prescribed fire burn permitting; and

14 (i) contingencies.

15 (2) The department may adopt rules to establish training requirements, fees, and standards for the  
16 program.

17

18 **NEW SECTION. Section 5. Liability.** A certified prescribed fire manager or a landowner or  
19 landowner's agent using a certified prescribed fire manager who conducts a prescribed fire in compliance with  
20 [sections 1 through 6] and the rules adopted by the department is not liable for injury to or destruction of  
21 property arising from a wildfire, except to the extent evidence demonstrates that:

22 (1) an action or omission of the certified prescribed fire manager, landowner, or landowner's agent  
23 constituted negligence or a higher degree of fault; and

24 (2) the action or omission caused or contributed to the cause of the wildfire or caused or  
25 contributed to the wildfire spreading.

26

27 **NEW SECTION. Section 6. Applicability -- enforcement.** (1) [Sections 1 through 6] may not be  
28 construed as requiring certification as a prescribed fire manager to conduct burning operations on one's own

1 property or on the property of another person with the person's permission if the person complies with  
2 applicable laws and rules related to prescribed fire and burning.

3 (2) The department may revoke a person's prescribed fire manager certification if the person  
4 violates the standards established in [sections 1 through 6] or rules adopted by the department.

5  
6 **Section 7.** Section 50-63-102, MCA, is amended to read:

7 **"50-63-102. Civil penalty for setting or leaving fire causing damage.** ~~A~~ Except as provided in  
8 [section 5], a person who sets or leaves a fire that spreads and damages or destroys property of any kind not  
9 belonging to the person is subject to a civil penalty of not less than \$50 or more than \$500."

10  
11 **Section 8.** Section 50-63-103, MCA, is amended to read:

12 **"50-63-103. Liability of offender for damages and costs.** Except as provided in 50-63-104 and  
13 [section 5], a person who sets or leaves a fire that spreads and damages or destroys property of any kind not  
14 belonging to the person is liable for all damages caused by the fire, and an owner of property damaged or  
15 destroyed by the fire may maintain a civil suit for the purpose of recovering damages. A person who sets or  
16 leaves a fire that threatens to spread and damage or destroy property is liable for all costs and expenses  
17 incurred, including but not limited to expenses incurred in investigation of the fire and administration of fire  
18 suppression, by the state of Montana, by any forestry association, or by any person extinguishing or preventing  
19 the spread of the fire."

20  
21 **Section 9.** Section 76-13-121, MCA, is amended to read:

22 **"76-13-121. Permit for burning required.** (1) (a) A person may not conduct a prescribed fire, as  
23 defined in [section 3], without an official written permit to ignite or set the prescribed fire from the recognized  
24 agency for that protection area.

25 (b) During the wildfire season or an expansion of the wildfire season, a person may not ignite or  
26 set a fire, including a slash-burning fire, land-clearing fire, debris-burning fire, or, except as provided in  
27 subsection (2), an open fire without an official written permit to ignite or set the fire from the recognized agency  
28 for that protection area.

1           (2)       (a) If no restrictions are in place, a permit is not needed for recreational fires measuring less  
2       than 48 inches in diameter that are surrounded by a nonflammable area or structure and for which a suitable  
3       source of extinguishing the fire is available.

4           (b)       A recreational fire may not be ignited if special restrictions prohibiting recreational fires have  
5       been established by an authority having jurisdiction."  
6

7           **Section 10.** Section 76-13-122, MCA, is amended to read:

8           **"76-13-122. Failure to comply with permit.** A person to whom a written permit is issued to set or  
9       ignite a fire shall comply strictly with the permit. ~~A-Except as provided in [section 5], a person who fails to~~  
10       comply with the permit, leaves the fire unattended, leaves the fire before it is totally extinguished, or negligently  
11       allows the fire to spread from or beyond the burning area defined by the permit is subject to the penalty  
12       provided in 50-63-102 and is subject to the provisions of 50-63-103. The department shall prescribe the form  
13       and substance of the permit."  
14

15           NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 6] are intended to be  
16       codified as a new part in Title 76, chapter 13, and the provisions of Title 76, chapter 13, apply to [sections 1  
17       through 6].  
18

19           NEW SECTION. **Section 12. Effective date.** [This act] is effective January 1, 2026.

20                               - END -