

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; CREATING A FUND;
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~~
DATES."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 6 8] may be cited as the "Prescribed Fire
Manager Certification and Liability Act".

NEW SECTION. **Section 2. Purpose.** The purposes of [sections 1 through 6 8] 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 8], 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, rules, and policies.

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

- (a) applicable laws and rules;
- (b) safety planning and management;
- (c) weather;
- (d) prescribed fire behavior, complexity analysis, and techniques;
- (e) smoke management;
- (f) prescribed fire burn plan requirements and standards;
- (g) public relations;
- (h) prescribed fire burn permitting; and
- (i) contingencies.

(2) The department may adopt rules to ~~establish training requirements, fees, and standards for the~~ program IMPLEMENT THE PRESCRIBED FIRE MANAGER CERTIFICATION PROGRAM, INCLUDING:

(A) TRAINING REQUIREMENTS;

(B) CERTIFICATION STANDARDS;

(C) RECIPROCITY REQUIREMENTS FOR PRESCRIBED FIRE CERTIFICATIONS FROM OTHER STATES AND ORGANIZATIONS; AND

(D) ADMINISTRATION OF THE PRESCRIBED FIRE MANAGER CERTIFICATION CLAIMS ACCOUNT; AND

~~(D)~~(E) FEES.

NEW SECTION. Section 5. Liability. A certified prescribed fire manager or a landowner or landowner's agent using a certified prescribed fire manager who conducts a prescribed fire in compliance with [sections 1 through 6 8] and the rules adopted by the department is not liable for injury to or destruction of property arising from a wildfire, except to the extent evidence demonstrates that:

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

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

NEW SECTION. Section 6. Applicability -- enforcement. (1) [Sections 1 through 6 8] may not be construed as requiring certification as a prescribed fire manager to conduct burning operations on one's own property or on the property of another person with the person's permission if the person complies with applicable laws and rules related to prescribed fire and burning.

(2) The department may revoke a person's prescribed fire manager certification if the person violates the standards established in [sections 1 through 6 8] or rules adopted by the department.

NEW SECTION. SECTION 7. PRESCRIBED FIRE MANAGER CERTIFICATION CLAIMS SPECIAL REVENUE ACCOUNT. (1) THERE IS A PRESCRIBED FIRE MANAGER CERTIFICATION CLAIMS SPECIAL REVENUE ACCOUNT WITHIN THE STATE SPECIAL REVENUE FUND ESTABLISHED IN 17-2-102.

(2) THERE MUST BE DEPOSITED IN THE ACCOUNT MONEY RECEIVED BY THE DEPARTMENT IN THE FORM OF GRANTS, GIFTS, TRANSFERS, BEQUESTS, DONATIONS, AND APPROPRIATIONS FROM ANY SOURCE INTENDED TO BE USED FOR THE PURPOSES OF [SECTIONS 1 THROUGH 8].

(3) MONEY DEPOSITED IN THE ACCOUNT MAY NOT BE USED FOR ANY PURPOSES OTHER THAN FOR THE DEVELOPMENT AND ADMINISTRATION OF THE PRESCRIBED FIRE MANAGER CERTIFICATION PROGRAM OR THE PAYMENT OF CLAIMS OF INJURY OR DESTRUCTION OF PROPERTY FROM AN ESCAPED PRESCRIBED FIRE OR BURN CONDUCTED BY A CERTIFIED PRESCRIBED FIRE MANAGER.

NEW SECTION. SECTION 8. DEPARTMENT STUDY OF PRESCRIBED FIRE LIABILITY. (1) THE DEPARTMENT SHALL CONDUCT A STUDY FOR THE DEVELOPMENT OF A PRESCRIBED FIRE CLAIMS FUND.

(2) THE STUDY MUST EXAMINE:

(A) THE POTENTIAL USE OF THE FUND TO SUPPORT COVERAGE FOR PROPERTY DAMAGE FROM AN ESCAPED PRESCRIBED FIRE CONDUCTED BY A CERTIFIED PRESCRIBED FIRE MANAGER; AND

(B) ECONOMIC DAMAGE FROM AN ESCAPED PRESCRIBED FIRE CONDUCTED BY A CERTIFIED PRESCRIBED
FIRE MANAGER, INCLUDING LOSS OF TIME, RESOURCES, CROPS, FENCING, AND AGRICULTURAL IMPROVEMENTS.

Section 9. Section 50-63-102, MCA, is amended to read:

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

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

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

Section 11. Section 76-13-121, MCA, is amended to read:

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

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

(2) (a) If no restrictions are in place, a permit is not needed for recreational fires measuring less
than 48 inches in diameter that are surrounded by a nonflammable area or structure and for which a suitable

source of extinguishing the fire is available.

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

Section 12. Section 76-13-122, MCA, is amended to read:

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

NEW SECTION. Section 13. Codification instruction. [Sections 1 through 6 8] are intended to be codified as a new part in Title 76, chapter 13, and the provisions of Title 76, chapter 13, apply to [sections 1 through 6 8].

NEW SECTION. Section 14. Effective date -- CONTINGENCY. (1) ~~[This act]~~ EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT] is effective January 1, 2026 ON PASSAGE AND APPROVAL.

(2) ~~[SECTION 5] IS [SECTIONS 5 AND 11] ARE EFFECTIVE ON THE LATER OF JANUARY 1, 2026, OR THE EFFECTIVE DATE OF A AFTER LEGISLATIVE APPROPRIATION OF FUNDS TO THE PRESCRIBED FIRE MANAGER CERTIFICATION CLAIMS SPECIAL REVENUE ACCOUNT IN [SECTION 7]. THE DEPARTMENT SHALL SUBMIT CERTIFICATION OF THE APPROPRIATION TO THE CODE COMMISSIONER WITHIN 15 DAYS OF THE OCCURRENCE OF THE CONTINGENCY.~~

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