

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 12, 2013

Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB13-083 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, page 3, line 2, strike "directly adjacent" and substitute
2 "in direct proximity".

3 Page 5, line 5, after "**amend**" insert "(3.3)," and after "**add**" insert "(3.1),
4 (3.2),".

5 Page 5, after line 8 insert:

6 "(3.1) "CERTIFIED PRESCRIBED BURN MANAGER" MEANS AN
7 INDIVIDUAL WHO SUCCESSFULLY COMPLETES THE DIVISION'S CERTIFIED
8 BURNER TRAINING AND CERTIFICATION PROGRAM AND POSSESSES A VALID
9 CERTIFICATION NUMBER.

10 (3.2) "CIGARETTE" MEANS ANY ROLL FOR SMOKING, WHETHER
11 MADE WHOLLY OR PARTLY OF TOBACCO OR ANY OTHER SUBSTANCE,
12 IRRESPECTIVE OF SIZE OR SHAPE, AND WHETHER OR NOT SUCH TOBACCO OR
13 SUBSTANCE IS FLAVORED, ADULTERATED, OR MIXED WITH ANY OTHER
14 INGREDIENT, THE WRAPPER OR COVER OF WHICH IS MADE OF PAPER OR ANY
15 OTHER SUBSTANCE OR MATERIAL EXCEPT TOBACCO.

16 (3.3) ~~"Cigarette" means any roll for smoking, whether made~~
17 ~~wholly or partly of tobacco or any other substance, irrespective of size or~~
18 ~~shape, and whether or not such tobacco or substance is flavored,~~
19 ~~adulterated, or mixed with any other ingredient, the wrapper or cover of~~
20 ~~which is made of paper or any other substance or material except tobacco.~~

21 "CONTROLLED AGRICULTURAL BURN" MEANS A TECHNIQUE USED IN
22 FARMING OR LIVESTOCK PRODUCTION ON A PARCEL OF LAND THAT MEETS
23 THE DEFINITION OF AGRICULTURAL LAND, AS THAT TERM IS DEFINED IN

- 1 SECTION 39-1-102 (1.6) (a), C.R.S., TO CLEAR THE LAND OF ANY EXISTING
2 NATIVE VEGETATION OR CROP RESIDUE OR KILL WEEDS AND WEED SEEDS.".
- 3 Page 5, strike lines 14 through 17 and substitute "~~flow preventer~~
4 "CONTROLLED DITCH BURN" MEANS A TECHNIQUE USING FIRE TO CLEAR
5 AND REMOVE VEGETATION, DEBRIS, OR OTHER MATERIAL FROM DITCHES,
6 CANALS, AND OTHER WATER TRANSPORTATION STRUCTURES, INCLUDING
7 BANKS AND ACCESS ROADS.".
- 8 Page 7, line 6, strike "GROUND," and substitute "GROUND.".
- 9 Page 7, strike line 7.
- 10 Page 7, line 13, strike "PLANNED FIRE" and substitute "PUBLIC SAFETY".
- 11 Page 7, line 14, after "AGRICULTURAL" insert "BURNS AND CONTROLLED
12 DITCH".
- 13 Page 7, strike lines 25 through 27 and substitute "CONDUCTING
14 PRESCRIBED BURNING ON ANY AREA OF WILDLAND IN THE STATE
15 PURSUANT TO SECTION 24-33.5-1217. THE DIVISION SHALL CONDUCT SUCH
16 PRESCRIBED BURNING PROGRAM IN COOPERATION WITH LOCAL, STATE, OR
17 FEDERAL AGENCIES, PRIVATE PERSONS, OR CONCERNS.".
- 18 Page 8, strike lines 1 through 4.
- 19 Page 8, line 6, after "portion," insert "(2) (e),".
- 20 Page 8, line 7, strike "and (10)" and substitute "(10), and (11)".
- 21 Page 8, after line 10 insert:
22 "(e) Establish training standards for certified burners AND UTILIZE
23 ALL MEANS AVAILABLE TO MAKE THE CERTIFIED BURNER TRAINING AS
24 ACCESSIBLE AS POSSIBLE; and".
- 25 Page 8, line 11, after "(3)" insert "(a)" and strike "ON" and substitute
26 "EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ON".
- 27 Page 8, after line 15 insert:
28 "(b) (I) NOTHING IN THIS SECTION REQUIRES A PRIVATE
29 LANDOWNER TO BE CERTIFIED BY THE DIVISION AS A PRESCRIBED BURN
30 MANAGER OR QUALIFIED BY NATIONAL WILDFIRE COORDINATING GROUP

1 STANDARDS AS A PRESCRIBED BURN BOSS TO CONDUCT PRESCRIBED FIRE
2 ON THEIR OWN PROPERTY.

3 (II) A PRIVATE LANDOWNER OR THE LANDOWNER'S DESIGNEE WHO
4 IS CERTIFIED BY THE DIVISION AS A PRESCRIBED BURN MANAGER OR
5 QUALIFIED BY NATIONAL WILDFIRE COORDINATING GROUP STANDARDS AS
6 A PRESCRIBED BURN BOSS IS NOT LIABLE FOR ANY CIVIL DAMAGES FOR
7 ACTS OR OMISSIONS MADE IN GOOD FAITH RESULTING IN DAMAGE OR
8 INJURY CAUSED BY FIRE OR SMOKE RESULTING FROM PRESCRIBED BURNS
9 THEY CONDUCT ON THEIR OWN PROPERTY AND IN COMPLIANCE WITH
10 APPLICABLE STATE LAWS AND LOCAL ORDINANCES, UNLESS SUCH PRIVATE
11 LANDOWNER'S OR DESIGNEE'S ACTS OR OMISSIONS ARE GROSSLY
12 NEGLIGENT OR WILLFUL AND WANTON.

13 (III) NOTHING IN THIS SECTION EXEMPTS PRIVATE LANDOWNERS
14 FROM COMPLYING WITH ANY OTHER APPLICABLE LOCAL, STATE, OR
15 FEDERAL REQUIREMENTS PERTAINING TO OPEN BURNING."

16 Page 9, line 14, strike "PROGRAM;" and substitute "PROGRAM WITHIN THE
17 DIVISION;"

18 Page 10, line 2, after "GOVERNMENT." add "TO BE EXEMPT FROM THESE
19 STANDARDS, OTHER USERS OF PRESCRIBED FIRE, INCLUDING LOCAL
20 GOVERNMENTS AND NONGOVERNMENTAL ORGANIZATIONS MUST ADOPT
21 OR HAVE ALREADY ADOPTED GUIDELINES OR STANDARDS THAT ARE IN
22 SUBSTANTIAL COMPLIANCE WITH THE INTENT OF SECTION 24-33.5-1217.5
23 FOR PRESCRIBED BURNING UNDER THEIR CONTROL."

24 Page 10, line 8, strike "OR OTHER".

25 Page 10, line 9, strike "HAZARDOUS FUEL REDUCTION".

26 Page 10, line 15, strike "DETERMINES THAT THE PUBLIC BENEFITS".

27 Page 10, strike lines 16 through 19 and substitute "VERIFIES THAT THE
28 PROPERTY OWNER OR OTHER PERSON HAVING LEGAL CONTROL OF THE
29 PROPERTY WITHIN THE WILDLAND HAS BOTH EVALUATED ALL
30 ALTERNATIVES TO PRESCRIBED BURNING AND DETERMINED THAT
31 PRESCRIBED BURNING IS THE MOST APPROPRIATE HAZARDOUS FUEL
32 REDUCTION METHOD FOR THE PROPERTY.

33 (c) NOTHING IN THIS SECTION COMPELS ANY PERSON TO ENTER
34 INTO AN AGREEMENT WITH THE DIRECTOR."

35 Reletter succeeding paragraph accordingly.

- 1 Page 12, line 15, strike "24-33.5-1217.5,".
- 2 Page 12, line 16, strike "24-33.5-1217.7, OR 24-33.3-1217.9" and
3 substitute "24-33.5-1217.5 OR 24-33.5-1217.7".
- 4 Page 12, after line 20 insert:
5 "(11) EXCEPT AS OTHERWISE PROVIDED FOR THE FEES
6 ESTABLISHED AND COLLECTED PURSUANT TO SUBSECTION (4) OF THIS
7 SECTION, ALL MONEYS RECEIVED BY THE DIVISION PURSUANT TO THIS
8 SECTION SHALL BE CREDITED TO THE WILDFIRE PREPAREDNESS FUND
9 CREATED IN SECTION 24-33.5-1226 (4) (a).".
- 10 Page 12, line 21, strike "24-33.5-1217.5,".
- 11 Page 12, strike line 22 and substitute "24-33.5-1217.5 and 24-33.5-1217.7
12 as follows:".
- 13 Page 13, strike line 5 and substitute "OBJECTIVES, AS THOSE OBJECTIVES
14 ARE DETERMINED BY THE PROPERTY OWNER OR NATURAL RESOURCE
15 MANAGEMENT AUTHORITY; AND".
- 16 Page 13, strike line 11 and substitute:
17 "(I) IS BASED ON THE".
- 18 Page 14, strike line 27.
- 19 Strike pages 15 and 16.
- 20 Page 17, strike lines 1 through 12.
- 21 Page 17, line 13, strike "**24-33.5-1217.9.**" and substitute
22 "**24-33.5-1217.7.**".
- 23 Page 17, line 14, strike "AVAILABLE" and substitute "ON-SITE".
- 24 Page 18, line 3, strike "LIABILITY." and substitute "LIABILITY FOR
25 TRESPASS.".

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