

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: State Affairs Committee
 2 Representative Beshears offered the following:

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5 Remove lines 882-1062 and insert:

6 Section 20. Subsections (1) and (2), paragraphs (b) and
 7 (c) of subsection (3), and paragraph (a) of subsection (4) of
 8 section 590.125, Florida Statutes, are amended to read:

9 590.125 Open burning authorized by the Florida Forest
 10 Service.—

11 (1) DEFINITIONS.—As used in this section, the term:

12 (a) "Certified pile burner" means an individual who
 13 successfully completes the pile burning certification program of
 14 the Florida Forest Service and possesses a valid pile burner
 15 certification number.

16 (b) "Certified pile burning" means a pile burn conducted
 17 in accordance with a written pile burning plan by a certified
 18 pile burner.

19 (c)-(b) "Certified prescribed burn manager" means an
 20 individual who successfully completes the certified prescribed

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21 burning program of the Florida Forest Service and possesses a
22 valid certification number.

23 (d) "Certified prescribed burning" means prescribed
24 burning in accordance with a written prescription conducted by a
25 certified prescribed burn manager.

26 (e) "Contained" means that fire and smoldering exist
27 entirely within established or natural firebreaks.

28 (f)-(e) "Completed" "Extinguished" means that for:

29 1. Broadcast burning, no continued lateral movement of
30 fire across the authorized area into entirely unburned fuels
31 within the authorized area ~~Wildland burning or certified~~
32 ~~prescribed burning, no spreading flames exist.~~

33 2. Certified pile ~~Vegetative land-clearing debris~~ burning
34 or pile burning, no visible flames exist.

35 3. Certified pile ~~Vegetative land-clearing debris~~ burning
36 or pile burning in an area designated as smoke sensitive by the
37 Florida Forest Service, no visible flames, smoke, or emissions
38 exist.

39 (g) "Gross negligence" means conduct so reckless or
40 wanting in care that it constitutes a conscious disregard or
41 indifference to the life, safety, or rights of persons exposed
42 to such conduct.

43 ~~(d) "Land-clearing operation" means the uprooting or~~
44 ~~clearing of vegetation in connection with the construction of~~
45 ~~buildings and rights-of-way, land development, and mineral~~
46 ~~operations. The term does not include the clearing of yard~~
47 ~~trash.~~

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48 ~~(h)(e)~~ "Pile burning" means the burning of silvicultural,
49 agricultural, ~~or~~ land-clearing, or ~~and~~ tree-cutting debris
50 originating onsite, which is stacked together in a round or
51 linear fashion, including, but not limited to, a windrow. Pile
52 burning authorized by the Florida Forest Service is a temporary
53 procedure, which operates on the same site for 6 months or less.

54 (i) "Pile burn plan" means a written plan establishing the
55 method of conducting a certified pile burn.

56 ~~(j)(f)~~ "Prescribed burning" means the ~~controlled~~
57 application of fire by broadcast burning ~~in accordance with a~~
58 ~~written prescription~~ for vegetative fuels under specified
59 environmental conditions, while following appropriate
60 precautionary measures to guard against the spread of fire
61 beyond the ~~that ensure that the fire is confined to a~~
62 predetermined area to accomplish the planned fire or land
63 management objectives.

64 ~~(k)(g)~~ "Prescription" means a written plan establishing
65 the conditions and method for conducting ~~criteria necessary for~~
66 ~~starting, controlling, and extinguishing~~ a certified prescribed
67 burn.

68 (l) "Smoldering" means the continued consumption of fuels,
69 which may emit flames and smoke, after a fire is contained.

70 ~~(m)(h)~~ "Yard trash" means vegetative matter resulting from
71 landscaping and yard maintenance operations and other such
72 routine property cleanup activities. The term includes materials
73 such as leaves, shrub trimmings, grass clippings, brush, and
74 palm fronds.

75 (2) NONCERTIFIED BURNING.—

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76 (a) Persons may be authorized to broadcast burn or pile
77 ~~burn wild land or vegetative land-clearing debris~~ in accordance
78 with this subsection if:

79 1. There is specific consent of the landowner or his or
80 her designee;

81 2. Authorization has been obtained from the Florida Forest
82 Service or its designated agent before starting the burn;

83 3. There are adequate firebreaks at the burn site and
84 sufficient personnel and firefighting equipment for the
85 containment ~~control~~ of the fire;

86 4. The fire remains within the boundary of the authorized
87 area;

88 5. The person named responsible in the burn authorization
89 or a designee ~~An authorized person~~ is present at the burn site
90 until the fire is completed ~~extinguished~~;

91 6. The Florida Forest Service does not cancel the
92 authorization; and

93 7. The Florida Forest Service determines that air quality
94 and fire danger are favorable for safe burning.

95 (b) A person who broadcast burns or pile burns ~~wild land~~
96 ~~or vegetative land-clearing debris~~ in a manner that violates any
97 requirement of this subsection commits a misdemeanor of the
98 second degree, punishable as provided in s. 775.082 or s.
99 775.083.

100 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND
101 PURPOSE.—

102 (b) Certified prescribed burning pertains only to
103 broadcast burning for purposes of silviculture, wildland fire

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104 hazard reduction, wildlife management, ecological maintenance
105 and restoration, and agriculture ~~range and pasture management~~.

106 It must be conducted in accordance with this subsection and:

107 1. May be accomplished only when a certified prescribed
108 burn manager is present on site with a copy of the prescription
109 and directly supervises the certified prescribed burn until the
110 burn is completed, after which the certified prescribed burn
111 manager is not required to be present ~~from ignition of the burn~~
112 ~~to its completion~~.

113 2. Requires that a written prescription be prepared before
114 receiving authorization to burn from the Florida Forest Service.

115 a. A new prescription or authorization is not required for
116 smoldering that occurs within the authorized burn area unless
117 new ignitions are conducted by the certified prescribed burn
118 manager.

119 b. Monitoring the smoldering activity of a certified
120 prescribed burn does not require a prescription or an additional
121 authorization even if flames begin to spread within the
122 authorized burn area due to ongoing smoldering.

123 3. Requires that the specific consent of the landowner or
124 his or her designee be obtained before requesting an
125 authorization.

126 4. Requires that an authorization to burn be obtained from
127 the Florida Forest Service before igniting the burn.

128 5. Requires that there be adequate firebreaks at the burn
129 site and sufficient personnel and firefighting equipment to
130 contain ~~for the control of the fire~~ within the authorized burn
131 area.

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132 a. Fire spreading outside the authorized burn area on the
133 day of the certified prescribed burn ignition does not
134 constitute conclusive proof of inadequate firebreaks,
135 insufficient personnel, or a lack of firefighting equipment.

136 b. If the certified prescribed burn is contained within the
137 authorized burn area during the authorized period, a strong
138 rebuttable presumption shall exist that adequate firebreaks,
139 sufficient personnel, and sufficient firefighting equipment were
140 present.

141 c. Continued smoldering of a certified prescribed burn
142 resulting in a subsequent wildfire does not by itself constitute
143 evidence of gross negligence under this section.

144 6. Is considered to be in the public interest and does not
145 constitute a public or private nuisance when conducted under
146 applicable state air pollution statutes and rules.

147 7. Is considered to be a property right of the property
148 owner if vegetative fuels are burned as required in this
149 subsection.

150 (c) ~~Neither~~ A property owner, leaseholder, ~~nor~~ his or her
151 agent, contractor, or legally authorized designee is not liable
152 pursuant to s. 590.13 for damage or injury caused by the fire,
153 including the reignition of a smoldering, previously contained
154 burn, or resulting smoke or considered to be in violation of
155 subsection (2) for burns conducted in accordance with this
156 subsection, unless gross negligence is proven. The Florida
157 Forest Service is not liable for burns for which it issues
158 authorizations.

159 (4) CERTIFIED PILE BURNING.—

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160 (a) Certified pile burning pertains to the disposal of
161 piled, naturally occurring debris from an agricultural,
162 silvicultural, ~~or temporary~~ land-clearing, or tree cutting
163 debris originating on site operation. A land-clearing operation
164 is temporary if it operates for 6 months or less. Certified pile
165 burning must be conducted in accordance with the following:

166 1. A certified pile burner must ensure, before ignition,
167 that the piles are properly placed and that the content of the
168 piles is conducive to efficient burning.

169 2. A certified pile burner must ensure that the authorized
170 burn is completed ~~piles are properly extinguished~~ no later than
171 1 hour after sunset. If the burn is conducted in an area
172 designated by the Florida Forest Service as smoke sensitive, a
173 certified pile burner must ensure that the authorized burn is
174 completed ~~piles are properly extinguished~~ at least 1 hour before
175 sunset.

176 3. A written pile burning plan must be prepared before
177 receiving authorization from the Florida Forest Service to burn
178 and must be on site and available for inspection by a department
179 representative.

180 4. The specific consent of the landowner or his or her
181 agent must be obtained before requesting authorization to burn.

182 5. An authorization to burn must be obtained from the
183 Florida Forest Service or its designated agent before igniting
184 the burn.

185 6. There must be adequate firebreaks and sufficient
186 personnel and firefighting equipment at the burn site to contain
187 the burn to the piles authorized ~~control the fire.~~