

SUBSTITUTE FOR
SENATE BILL NO. 925

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 51501, 51506, 51509, 51510, and 51513 (MCL
324.51501, 324.51506, 324.51509, 324.51510, and 324.51513), as
added by 1995 PA 57, and by adding section 51503b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 51501. As used in this part:

2 (a) "Certified prescribed burn manager" means an individual
3 who has successfully completed the certification program of the
4 department under section 51513 and possesses a valid
5 certification number.

6 (b) "Department" means the department of natural resources.

7 (c) "Domestic purposes" refers to burning that is any of the
8 following:

9 (i) A fire within the curtilage of a dwelling where the

1 material being burned has been properly placed in a debris burner
2 constructed of metal or masonry, with metal covering device with
3 openings no larger than 3/4 of an inch.

4 (ii) A campfire.

5 (iii) Any fire within a building.

6 (d) "Extinguished", in reference to prescribed burning, means
7 that there is no longer any spreading flame.

8 (e) ~~-(a)-~~ "Forest land", ~~means timbered~~ subject to
9 subdivision (f), means any of the following:

10 (i) Timber land, potential timber-producing land, or cutover
11 or burned timber land. ~~or grass lands not including lands~~

12 (ii) Wetland.

13 (iii) Prairie or other land dominated by grasses or forbes.

14 (f) "Forest land" does not include land devoted to
15 agriculture.

16 (g) ~~-(b)-~~ "Flammable material" means any substance that will
17 burn, including, but not limited to, refuse, debris, waste forest
18 material, brush, stumps, logs, rubbish, fallen timber, grass,
19 stubble, leaves, fallow land, slash, crops, or crop residue.

20 ~~-(c)-~~ "Domestic purposes" means any fire within the curtilage
21 of a dwelling where the material being burned has been properly
22 placed in a debris burner constructed of metal or masonry with
23 metal covering device with openings no larger than 3/4 of an
24 inch, or a campfire, or any fire within a building.

25 (h) "Prescribed burn" or "prescribed burning" means the
26 burning, in compliance with a prescription and to meet planned
27 fire or land management objectives, of a continuous cover of

1 fuels.

2 (i) "Prescription" means a written plan establishing the
3 criteria necessary for starting, controlling, and extinguishing a
4 burn.

5 (j) "Wetland" means land characterized by the presence of
6 water at a frequency and duration sufficient to support, and that
7 under normal circumstances does support, wetland vegetation or
8 aquatic life, and is commonly referred to as a bog, swamp, or
9 marsh.

10 Sec. 51503b. (1) Prescribed burning does not constitute a
11 public or private nuisance when conducted in compliance with this
12 part, part 55, and rules promulgated to implement this part or
13 part 55.

14 (2) Subject to subsections (3) and (4), a property owner or
15 his or her agent conducting prescribed burning is not liable for
16 damage or injury caused by the fire or resulting smoke.

17 (3) Subsections (1) and (2) apply to a prescribed burn only
18 if all of the following requirements are met:

19 (a) The landowner or his or her designee has specifically
20 consented to the prescribed burn.

21 (b) The requirements of section 51503 are met.

22 (c) There are adequate firebreaks at the burn site and
23 sufficient personnel and firefighting equipment for the control
24 of the fire.

25 (d) A certified prescribed burn manager is present on site
26 with a copy of the prescription, from ignition of the prescribed
27 burn to its completion.

1 (e) The damage or injury does not result from the fire
2 escaping the boundary of the area authorized in the permit under
3 section 51503.

4 (f) The property owner or his or her agent is not grossly
5 negligent.

6 (4) Subsection (2) does not affect liability for injury to or
7 death of a person engaged in the prescribed burning.

8 Sec. 51506. (1) ~~Any~~ **Except as provided in section 51503b,**
9 a person who, in violating this part, causes a forest or grass
10 fire is liable for all damages resulting from that fire,
11 including the cost of any governmental unit fighting the fire.
12 ~~This~~

13 (2) **Except as provided in section 51503b, this** part does not
14 affect any other right of action for damages.

15 Sec. 51509. (1) ~~Any~~ **Except as provided in section 51503b,**
16 a person who sets fire on any land and negligently allows the
17 fire to escape and become a forest or grass fire is liable for
18 all expenses incurred by the state in the suppression of the
19 fire.

20 (2) The department shall certify, in writing, to the person
21 the claim of the state **under subsection (1)** and shall list the
22 items of expense incurred in the suppression of the fire. The
23 claim shall be paid within 60 days and, if not paid within that
24 time, the department may bring suit against the person in a court
25 of competent jurisdiction in the county of the residence of the
26 defendant or of any defendant if there is more than 1, for the
27 collection of the claim at any time within 2 years ~~of~~ **after** the

1 ~~claim~~ fire. If the amount of the claim is cognizable by a
2 circuit court, the department may file the suit in the circuit
3 court of Ingham county, or in the circuit court of the county of
4 the residence of the defendant or any defendant if there is more
5 than 1.

6 Sec. 51510. (1) A person shall not do any of the
7 following:

8 (a) Willfully, maliciously, or wantonly set fire or cause or
9 procure to be set on fire any forest land, lands adjacent to
10 forest land, or flammable material on such forest land.

11 (b) Willfully, maliciously, or wantonly set, throw, or place
12 any device, instrument, paraphernalia, or substance in or
13 adjacent to any forest land with intent to set fire to the land
14 or which in the natural course of events would result in fire
15 being set to the forest land.

16 (2) **This section does not apply to a prescribed burn**
17 **conducted in compliance with section 51503b.**

18 Sec. 51513. (1) The department shall administer this part
19 and shall promulgate rules necessary to implement this part. **The**
20 **department shall adopt rules governing prescribed burning and for**
21 **certifying and decertifying prescribed burn managers based on**
22 **their past experience, training, certification by another state,**
23 **and record of compliance with section 51503b. The department**
24 **shall submit the proposed rules for public hearing pursuant to**
25 **the administrative procedures act of 1969, 1969 PA 306, MCL**
26 **24.201 to 24.328, within 6 months after the effective date of the**
27 **2004 amendatory act that amended this section.**

1 (2) The department may make, conduct, or participate in
2 investigations and surveys designed to establish the cause of ~~a~~
3 or responsibility for a particular forest fire or forest fire
4 conditions generally.

5 (3) This part does not limit or otherwise impair the
6 jurisdiction or powers of any other department, agency, or
7 officer of this state to investigate, apprehend, and prosecute
8 violators of this part. ~~or obviate~~ **This part does not preempt**
9 local ordinances or ~~prevent enactment of~~ local regulations that
10 are as restrictive or more restrictive than this part, **except to**
11 **the extent the ordinances or regulations conflict with the**
12 **exemption from liability for, or otherwise apply to, prescribed**
13 **burns conducted in compliance with section 51503b.**