



Rep. Donald L. Moffitt

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1 AMENDMENT TO HOUSE BILL 1638

2 AMENDMENT NO. _____. Amend House Bill 1638 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois Prescribed Burning Act.

6 Section 5. Legislative findings; purpose.

7 (a) Prescribed burning is a land management tool that
8 benefits the safety of the public, the environment, and the
9 economy of the State. Therefore, the General Assembly finds
10 that:

11 (1) Most of the State's natural communities require
12 periodic fire for maintenance of their ecological health.
13 Prescribed burning is essential to the perpetuation,
14 restoration, and management of many plant and animal
15 communities. Significant loss of the State's biological
16 diversity will occur if fire is excluded from these

1 fire-dependent communities.

2 (2) Public agencies and non-governmental organizations
3 in the State have spent millions of dollars to purchase
4 hundreds of thousands of acres of land for parks, wildlife
5 areas, State forests, nature preserves and other outdoor
6 recreational purposes. The use of prescribed burning for
7 management of these public and private lands is essential
8 to maintain the specific resource values for which these
9 areas were acquired.

10 (3) Forests, grasslands, and wetlands in the State
11 constitute significant economic, biological, and aesthetic
12 resources of statewide importance. Prescribed burning
13 prepares sites for planting, removes undesirable competing
14 vegetation, accelerates nutrient cycling, controls certain
15 pathogens and noxious weeds, and promotes oak
16 regeneration. In these communities, prescribed burning
17 improves and maintains the quality and quantity of wildlife
18 habitats.

19 (4) Prescribed burning reduces naturally occurring
20 vegetative fuels. Reducing the fuel load reduces the risk
21 and severity of wildfires, thereby reducing the threat of
22 loss of life and property.

23 (5) Federal and State agencies promote and subsidize
24 fire dependent vegetative communities and recommend
25 prescribed burning as an essential management practice for
26 many funded programs.

1 (6) Proper training in the purposes, use, and
2 application of prescribed burning is necessary to ensure
3 maximum benefits and protection for the public.

4 (7) Prescribed burning in the hands of trained,
5 skilled, and experienced people is safe and often the most
6 cost effective management technique to accomplish many
7 ecosystem restoration objectives and ecological goals.

8 (8) A public education program is necessary to make
9 citizens and visitors aware of the public safety, natural
10 resource, and economic benefits of prescribed burning and
11 its use as a land management tool.

12 (9) As development and urbanization increase in the
13 State, pressures from liability issues, and nuisance
14 complaints will inhibit the use of prescribed burning.

15 (b) It is the purpose of this Act to authorize and to
16 promote the continued use of prescribed burning for ecological,
17 forest, wetland, wildlife management, and grassland management
18 purposes.

19 Section 10. Definitions. As used in this Act:

20 (a) "Prescribed burning" means the planned application of
21 fire to naturally occurring vegetative fuels under specified
22 environmental conditions and following appropriate
23 precautionary measures, which causes the fire to be confined to
24 a predetermined area and accomplish the planned land management
25 objectives.

1 (b) "Certified prescribed burn manager" means an
2 individual who successfully completes an approved training
3 program and receives proper certification.

4 (c) "Prescription" means a written plan for conducting a
5 prescribed burn.

6 (d) "Department" means the Illinois Department of Natural
7 Resources.

8 Section 15. Requirements; liability.

9 (a) Before conducting a prescribed burn under this Act, a
10 person shall:

11 (1) obtain the written consent of the landowner;

12 (2) have a written prescription approved by a certified
13 prescribed burn manager;

14 (3) have at least one certified prescribed burn manager
15 present on site with a copy of the prescription while the
16 burn is being conducted;

17 (4) notify the local fire department, county
18 dispatcher, 911 dispatcher, or other designated emergency
19 dispatcher on the day of the prescribed burn; and

20 (5) make a reasonable attempt to notify all adjoining
21 property owners and occupants of the date and time of the
22 prescribed burn.

23 (b) The property owner and any person conducting a
24 prescribed burn under this Act shall be liable for any actual
25 damage or injury caused by the fire or resulting smoke upon

1 proof of negligence.

2 (c) Any prescribed burning conducted under this Act:

3 (1) is declared to be in the public interest;

4 (2) does not constitute a public or private nuisance
5 when conducted in compliance with Section 9 of the
6 Environmental Protection Act and all other State statutes
7 and rules applicable to prescribed burning; and

8 (3) is a property right of the property owner if
9 naturally occurring vegetative fuels are used.

10 Section 20. Rules. The Department, in consultation with the
11 Office of the State Fire Marshall, shall promulgate rules to
12 implement this Act, including but not limited to, rules
13 governing prescribed burn manager certification and revocation
14 and rules governing prescribed burn prescriptions.

15 Section 25. Exemption. Nothing in this Act shall be
16 construed as:

17 (1) requiring certification as a prescribed burn manager to
18 conduct prescribed burning on one's own property or on the
19 lands of another with the landowner's permission; Section 15(b)
20 shall not apply to prescribed burns conducted under the
21 exemption in this item (1);

22 (2) affecting any obligations or liability under the
23 Environmental Protection Act or any rules adopted thereunder,
24 or under any federal laws or rules that apply to prescribed

1 burning; or

2 (3) superseding any local burning law.

3 Section 30. Fees. The Department may charge and collect
4 fees from persons applying for safety training and
5 certification as a certified prescribed burn manager.

6 Section 35. Severability. The provisions of this Act are
7 severable under Section 1.31 of the Statute on Statutes.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".