

HOUSE BILL NO. 587

INTRODUCED BY R. SHAW

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR CERTIFIED PRESCRIBED BURNING; PROVIDING DEFINITIONS AND STANDARDS; PROVIDING AN EXCEPTION FROM LIABILITY; PROVIDING FOR A FEE; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 3], the following definitions apply:

(1) "Certified prescribed burn" or "certified prescribed burning" means the controlled application of fire under the supervision of a prescribed fire burn boss in accordance with a written prescribed burn plan. A certified prescribed burn is for vegetative fuels under specific environmental conditions. A certified prescribed burn follows appropriate precautionary measures to ensure the fire is confined to a predetermined area. A certified prescribed burn is intended to accomplish certain planned fire or land management objectives.

(2) "Department" means the department of natural resources and conservation provided for in 2-15-3301.

(3) "Prescribed burn plan" means a written plan containing criteria necessary for starting, controlling, and extinguishing a prescribed burn.

(4) "Prescribed fire burn boss" means a person who completes training and maintains the experience required by the department to supervise certified prescribed burning. The prescribed fire burn boss assists in implementation of a prescribed burn plan.

(5) "Prescribed fire manager" means a person who completes training and maintains the experience required by the department to review and approve a prescribed burn plan. A prescribed fire manager supervises a certified prescribed burn.

NEW SECTION. **Section 2. Certified prescribed burning purpose -- standards.** (1) The department may authorize certified prescribed burning for purposes of:

- (a) removing a fire hazard to any property;
- (b) preparing seed beds;

1 (c) removing obstructions to or interference with seeding, agricultural use, grazing, or other uses of that  
2 land;

3 (d) promoting the establishment of new forest crops on cutover, denuded, or underproductive lands;

4 (e) implementing pest prevention and suppression activities; or

5 (f) promoting improvements to forest health, including improvements to fish and wildlife habitat.

6 (2) The department may authorize certified prescribed burning only if the landowner or the landowner's  
7 designee submits to the department a written prescribed burn plan that has been approved by a prescribed fire  
8 manager. The written prescribed burn plan must be accompanied by a \$25 plan review fee.

9 (3) A prescribed fire burn boss must be present at the burn site with a copy of the approved prescribed  
10 burn plan. The prescribed fire burn boss must be present from the ignition of the burn to the completion of the  
11 burn.

12 (4) When a certified prescribed burn is conducted, a person who is not acting on behalf of the state or  
13 a political subdivision of the state is not liable for property damage resulting from that burning, unless the damage  
14 is caused by the negligence of the person.

15 (5) A certified prescribed burn is subject to the burn permitting requirements of 76-13-121 and 76-13-122.

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17 **NEW SECTION. Section 3. Certified prescribed burn standards.** To accomplish the purposes in  
18 [section 2], the department may establish certified prescribed burn practices by rule. The rules may include:

19 (1) prescribed burn standards, requirements, and procedures;

20 (2) certification requirements, standards, and procedures to revoke certification for prescribed fire  
21 managers and prescribed fire burn bosses;

22 (3) actions and activities that a prescribed fire manager and a prescribed fire burn boss must perform;

23 (4) actions and activities that a prescribed fire manager and a prescribed fire burn boss may not allow  
24 or perform;

25 (5) limitations on the use of a prescribed fire burn boss; or

26 (6) any other standard, requirement, or procedure that the department considers necessary.

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28 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 through 3] are intended to be codified  
29 as an integral part of Title 76, chapter 13, and the provisions of Title 76, chapter 13, apply to [sections 1 through  
30 3].

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2           NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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