

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

DRAFT
10.7.21

BILL 2

LLS NO. 22-0188.01 Megan Waples x4348

INTERIM COMMITTEE BILL

Wildfire Matters Review Committee

BILL TOPIC: "Prescribed Burns Private Property"

A BILL FOR AN ACT

101 **CONCERNING THE ABILITY TO CONDUCT PRESCRIBED BURNS ON**
102 **PRIVATE PROPERTY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Wildfire Matters Review Committee. The bill clarifies the right to use prescribed burns in accordance with federal, state, and local requirements as a private property right of a landowner and establishes that use of prescribed burning in accordance with applicable federal, state, and local requirements is not a public or private nuisance. Local requirements pertaining to the use of prescribed burning cannot be more

*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

restrictive than the prescribed burning standards adopted by the director of the division of fire prevention and control in the department of public safety. The bill requires a county open burn permitting system to exclude broadcast and pile burns that have a written prescribed burn plan.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-33.5-1217, **add**
3 (3)(c) as follows:

4 **24-33.5-1217. Prescribed burning program - training and**
5 **certification of certified burners - rules - fees - legislative declaration.**

6 (3) (c) (I) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT:

7 (A) WILDLAND FIRES, WHICH CROSS JURISDICTIONAL BOUNDARIES
8 AND CAUSE DEVASTATING DAMAGE, POSE RISKS TO THE ENTIRE STATE;

9 (B) PRESCRIBED BURNS ARE A POWERFUL TOOL FOR REDUCING THE
10 RISKS OF WILDLAND FIRES; AND

11 (C) THERE IS A STATEWIDE INTEREST IN THE SAFE USE OF
12 PRESCRIBED BURNING TO REDUCE THE RISKS OF WILDLAND FIRES
13 THROUGHOUT THE STATE.

14 (II) (A) USE OF PRESCRIBED BURNS ON PRIVATE PROPERTY IN
15 COMPLIANCE WITH APPLICABLE LOCAL, STATE, AND FEDERAL
16 REQUIREMENTS PERTAINING TO PRESCRIBED BURNING IS A PROPERTY
17 RIGHT OF THE LANDOWNER.

18 (B) USE OF PRESCRIBED BURNS IS CONSIDERED TO BE IN THE
19 PUBLIC INTEREST AND DOES NOT CONSTITUTE A PUBLIC OR PRIVATE
20 NUISANCE WHEN CONDUCTED IN COMPLIANCE WITH APPLICABLE LOCAL,
21 STATE, AND FEDERAL REQUIREMENTS PERTAINING TO PRESCRIBED
22 BURNING.

23 (C) LOCAL REQUIREMENTS PERTAINING TO PRESCRIBED BURNING

1 ON PRIVATE PROPERTY MUST NOT BE MORE RESTRICTIVE THAN THE
2 PRESCRIBED BURNING STANDARDS ADOPTED BY THE DIRECTOR PURSUANT
3 TO SUBSECTION (5)(a)(II)(B) OF THIS SECTION AND SECTION
4 24-33.5-1217.5.

5 **SECTION 2.** In Colorado Revised Statutes, 30-15-401, **amend**
6 (1)(n.5)(II) introductory portion and (1)(n.5)(II)(E) as follows:

7 **30-15-401. General regulations - definitions.** (1) In addition to
8 those powers granted by sections 30-11-101 and 30-11-107 and by parts
9 1, 2, and 3 of this article 15, the board of county commissioners may
10 adopt ordinances for control or licensing of those matters of purely local
11 concern that are described in the following enumerated powers:

12 (n.5) (II) Subject to ~~subparagraph (IV) of this paragraph (n.5)~~
13 SUBSECTION (1)(n.5)(IV) OF THIS SECTION, the board of county
14 commissioners in each county that has a substantial forested area shall,
15 by January 1, 2012, develop an open burning permit system for the
16 purpose of safely disposing of slash. In developing an open burning
17 permit system, the board is encouraged to consult with the division of fire
18 prevention and control, established in section 24-33.5-1201, ~~C.R.S.~~, and
19 shall:

20 (E) Exempt broadcast AND PILE burns conducted within federal
21 and state guidelines that have a written prescribed fire plan and
22 agricultural burns; and

23 **SECTION 3. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly; except
26 that, if a referendum petition is filed pursuant to section 1 (3) of article V
27 of the state constitution against this act or an item, section, or part of this

1 act within such period, then the act, item, section, or part will not take
2 effect unless approved by the people at the general election to be held in
3 November 2022 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.