

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

DRAFT

LLS NO. 25-0188.01 Caroline Martin x5902

SENATE BILL

SENATE SPONSORSHIP

Cutter and Marchman, Exum

HOUSE SPONSORSHIP

Velasco and Weinberg, Boesenecker, Mauro

Senate Committees

House Committees

A BILL FOR AN ACT

101 **CONCERNING SUPPORT TO INCREASE PRESCRIBED BURNS.**

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. Section 1 of the bill creates the prescribed fire claims cash fund (fund) in the state treasury and requires the treasurer to transfer \$1 million to the fund. The division of fire prevention and control (division) shall expend money from the fund to pay claims that are certified by the division in accordance with new guidelines as specified in the bill and as adopted by the director of the division. The division shall authorize a payment in the amount certified in a claim; except that the maximum payment that the division

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

may authorize is equal to 10% of the amount of money in the fund at the time the claim is filed.

The division shall certify a claim that meets the following guidelines:

- The claim demonstrates, in sufficient detail, the costs or damages that resulted from the prescribed burn;
- The prescribed burn that resulted in the costs or damages was conducted in full compliance with statutory and regulatory requirements for prescribed burning;
- Before conducting the prescribed burn, the certified prescribed burn manager registered the written prescription plan for the prescribed burn with the division and paid an administrative fee; and
- No more than 60 days have passed between the completion of the prescribed burn and the date upon which costs and damages were incurred.

The bill gives rule-making authority to the director of the division to adopt rules and guidelines for the implementation and administration of the program and permits the division to contract with a third-party to administer, certify, and pay the claims. The bill also requires a claimant who accepts a payment that covers the full amount certified in the claim to waive all future claims related to the prescribed burn.

Sections 2 and 3 expand the definition of a "certified burner" in the state to include an individual who has not completed the Colorado division's training and certification program but who meets reciprocity requirements and possesses a valid Colorado certification number. An individual seeking certification through reciprocity may receive a certification number from the division by:

- Applying for certification to the division, according to the rules and standards of the division, including the payment of any associated fee; and
- Submitting evidence to the division, according to the rules and standards of the division, that the individual holds a valid certification from a state government or other entity.

The director of the division, in consultation with the Colorado state forest service, is required to adopt rules and standards pertaining to the qualification for and the terms and durations of certification, including through reciprocity.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-33.5-1240 as
3 follows:

1 IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION;

2 (II) THE DIVISION SHALL AUTHORIZE A PAYMENT IN THE AMOUNT
3 CERTIFIED IN THE CLAIM; EXCEPT THAT THE MAXIMUM PAYMENT THAT THE
4 DIVISION MAY AUTHORIZE FOR A CERTIFIED CLAIM ARISING FROM ANY
5 SINGULAR PRESCRIBED BURN IS EQUAL TO TEN PERCENT OF THE AMOUNT
6 OF MONEY IN THE FUND AT THE TIME THE CLAIM IS FILED; AND

7 (III) THE DIVISION SHALL MAKE EVERY EFFORT TO AUTHORIZE A
8 PAYMENT IN THE AMOUNT CERTIFIED IN THE CLAIM BEFORE ANY OTHER
9 CLAIM RELATED TO THE SAME PRESCRIBED BURN IS PROCESSED BY
10 ANOTHER INSURER.

11 (3) THE DIVISION SHALL CERTIFY A CLAIM RELATED TO A
12 PRESCRIBED BURN THAT MEETS ALL THE FOLLOWING REQUIREMENTS:

13 (a) THE CLAIM DEMONSTRATES, IN SUFFICIENT DETAIL, THE COSTS
14 ASSOCIATED WITH SUPPRESSION AND ANY OTHER COSTS OR DAMAGES
15 THAT RESULTED FROM A PRESCRIBED BURN;

16 (b) THE PRESCRIBED BURN THAT RESULTED IN THE CLAIM WAS
17 CONDUCTED IN FULL COMPLIANCE WITH SECTIONS 24-33.5-1217 AND
18 24-33.5-1217.5 AND WITH ALL OTHER RULES AND STANDARDS ADOPTED
19 BY THE DIRECTOR IN ACCORDANCE WITH THOSE SECTIONS.

20 (c) (I) BEFORE CONDUCTING THE PRESCRIBED BURN, THE
21 CERTIFIED PRESCRIBED BURN MANAGER REGISTERED THE WRITTEN
22 PRESCRIPTION PLAN REQUIRED BY SECTION 24-33.5-1217.5 (1)(a) WITH
23 THE DIVISION AND PAID AN ADMINISTRATIVE FEE OF ONE HUNDRED
24 DOLLARS OR A GREATER AMOUNT AS ESTABLISHED BY THE DIVISION
25 PURSUANT TO SUBSECTION (3)(c)(II) OF THIS SECTION TO THE DIVISION.

26 (II) THE DIVISION MAY INCREASE THE AMOUNT OF THE
27 ADMINISTRATIVE FEE SET FORTH IN SUBSECTION (3)(c)(I) OF THIS SECTION

1 BASED ON THE COMPLEXITY AND UNIQUE CHARACTERISTICS OF A
2 PRESCRIBED BURN. THE DIRECTOR MAY ADOPT RULES OR GUIDELINES TO
3 SET THE AMOUNT OF THE FEE.

4 (d) NO MORE THAN SIXTY DAYS HAVE PASSED BETWEEN THE DATE
5 UPON WHICH THE PRESCRIBED BURN WAS COMPLETED, AS DETERMINED BY
6 THE CERTIFIED PRESCRIBED BURN MANAGER, AND THE DATE UPON WHICH
7 THE RESULTING COSTS AND DAMAGES SPECIFIED IN THE CLAIM WERE
8 INCURRED; EXCEPT THAT THE DIRECTOR MAY ADOPT RULES AND
9 GUIDELINES RELATED TO HOLDOVER FIRES AND OTHER UNIQUE FIRE
10 CHARACTERISTICS.

11 (4) THE DIRECTOR MAY ADOPT RULES AND GUIDELINES FOR THE
12 IMPLEMENTATION AND ADMINISTRATION OF THIS SECTION.

13 (5) UPON ACCEPTING A PAYMENT AUTHORIZED BY THE DIVISION
14 THAT COVERS THE FULL AMOUNT OF COSTS AND DAMAGES CERTIFIED IN
15 THE CLAIM, A CLAIMANT SHALL WAIVE ALL FUTURE CLAIMS RELATED TO
16 THE PRESCRIBED BURN.

17 (6) THE DIVISION MAY CONTRACT WITH A THIRD-PARTY TO
18 ADMINISTER, CERTIFY, AND PAY THE CLAIMS.

19 **SECTION 2.** In Colorado Revised Statutes, 24-33.5-1202,
20 **amend** (2.3) as follows:

21 **24-33.5-1202. Definitions.** As used in this part 12, unless the
22 context otherwise requires:

23 (2.3) "Certified burner" means an individual who EITHER
24 successfully completes the division's certified burner training and
25 certification program OR MEETS THE REQUIREMENTS FOR RECIPROCITY
26 DESCRIBED IN SECTION 24-33.5-1217 (2.5) and WHO possesses a valid
27 certification number.

1 **SECTION 3.** In Colorado Revised Statutes, 24-33.5-1217,
2 **amend** (2) introductory portion, (2)(b), (2)(e), (2)(f), (5)(a) introductory
3 portion, (5)(a)(II)(A), and (10); and **add** (2)(g) and (2.5) as follows:

4 **24-33.5-1217. Prescribed burning program - training and**
5 **certification of certified burners - rules - fees.** (2) The training and
6 certification standards adopted under this section ~~shall~~ **MUST:**

7 (b) Establish requirements for certified burners to conduct lawful
8 activities pursuant to authorization under section 18-13-109 (2)(b)(IV),
9 ~~C.R.S.~~, regarding firing of woods or prairie;

10 (e) Establish training standards for certified burners and utilize all
11 means available to make the certified burner training as accessible as
12 possible; ~~and~~

13 (f) Clearly identify preexisting fees, permit requirements,
14 liabilities, liability exemptions, and penalties for prescribed burn
15 personnel and landowners, including those specified in sections 25-7-106
16 (7) and (8) and 25-7-123; ~~C.R.S.~~ AND

17 (g) ALLOW FOR AN INDIVIDUAL WHO MEETS THE RECIPROCITY
18 REQUIREMENTS DESCRIBED IN SUBSECTION (2.5) OF THIS SECTION TO
19 APPLY FOR AND RECEIVE A STATE CERTIFICATION NUMBER.

20 (2.5) (a) AN INDIVIDUAL WHO MEETS THE RECIPROCITY
21 REQUIREMENTS DESCRIBED IN THIS SUBSECTION (2.5) MAY QUALIFY FOR
22 CERTIFICATION AS A CERTIFIED BURNER.

23 (b) TO RECEIVE A VALID CERTIFICATION NUMBER FROM THE
24 DIVISION, THE INDIVIDUAL MUST:

25 (I) APPLY FOR CERTIFICATION TO THE DIVISION, ACCORDING TO
26 THE RULES AND STANDARDS OF THE DIVISION, INCLUDING THE PAYMENT
27 OF ANY ASSOCIATED FEE; AND

1 (II) SUBMIT EVIDENCE TO THE DIVISION, ACCORDING TO THE RULES
2 AND STANDARDS OF THE DIVISION, THAT THE INDIVIDUAL HOLDS A VALID
3 CERTIFICATION FROM A STATE GOVERNMENT OR OTHER ENTITY.

4 (5) (a) The director, in consultation with the Colorado state forest
5 service described in part 3 of article 31 of title 23 ~~C.R.S.~~, and in
6 accordance with article 4 of this ~~title~~ TITLE 24:

7 (II) Shall adopt rules and standards:

8 (A) Pertaining to the training and certification of certified burners,
9 including training components; application processes; qualification for
10 and terms and durations of certification, INCLUDING THROUGH
11 RECIPROCITY; types of certification, if applicable; grounds and processes
12 for renewal, suspension, and revocation of certifications; and training,
13 certification, and renewal fees; and

14 (10) Notwithstanding any other provision of law:

15 (a) In performing the duties assigned to ~~him or her~~ THE DIRECTOR
16 under subsections (5) and (6) of this section, the director shall consult
17 with the Colorado state forest service as described in part 3 of article 31
18 of title 23. ~~C.R.S.~~

19 (b) The prescribed burning standards adopted by the director
20 pursuant to ~~sub-subparagraph (B) of subparagraph (H) of paragraph (a)~~
21 ~~of subsection (5)~~ SUBSECTION (5)(a)(II)(B) of this section ~~shall~~ MUST be
22 consistent with existing laws and processes that ban, regulate, or have
23 developed recommendations concerning open burning, including sections
24 18-13-109, 18-13-109.5, 23-31-312, 23-31-313 (6)(a)(II) and (6)(a)(III),
25 25-7-106 (7) and (8), 25-7-123, 29-20-105.5, and 30-11-124. ~~C.R.S.~~

26 (c) Nothing in this section or section 24-33.5-1217.5 or
27 24-33.5-1217.7 ~~shall be construed to affect~~ AFFECTS the authority of a

1 county government to develop or administer an open burning permit
2 system for the purpose of safely disposing of slash in accordance with the
3 provisions of section 30-15-401 (1)(n.5). ~~C.R.S.~~

4 **SECTION 4. Safety clause.** The general assembly finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, or safety or for appropriations for
7 the support and maintenance of the departments of the state and state
8 institutions.