



SENATE BILL 582: North Carolina Farm Act of 2023, Sec. 9: Prescribed Burning Act Amendments

2023-2024 General Assembly

Committee:		Date:	November 29, 2023
Introduced by:		Prepared by:	Chris Saunders Staff Attorney
Analysis of:	Sec. 9 of S.L. 2023-63		

OVERVIEW: Section 9 of S.L. 2023-63 makes several changes to the Prescribed Burning Act by amending (i) definitions of "prescribed burning" and "prescription," (ii) landowner liability during a prescribed burn, and (iii) the process for conducting a prescribed burn, as described in the full summary.

This bill was vetoed by the Governor on June 23, 2023, and that veto was overridden by the General Assembly on June 27, 2023.

This section became effective June 27, 2023.

BILL ANALYSIS:

Section 9.(a) of S.L. 2023-63 makes clarifying changes to the definitions of "prescribed burning" and "prescription" in the Prescribed Burning Act.

Section 9.(b) does the following:

- Specifies that a landowner or landowner's agent who conducts a prescribed burn in compliance with the statute is not liable for injury caused by reignition of a smoldering, previously contained burn.
- Provides that a landowner or landowner's agent who conducts a prescribed burn is not immune from liability if a nuisance or damage results from gross negligence, as opposed to "negligently or improperly conducted prescribed burning" as provided by the statute prior to enactment of this section.
- Provides that the liability limitation for prescribed burning does not apply to claims by public utilities resulting from damage to their equipment or facilities, where a prescribed burn proximately causes such damage.

Section 9.(c) does the following:

- Makes clarifying changes specifying that a certified prescribed burner must prepare a prescription for a prescribed burning and file the prescription with the North Carolina Forest Service.
- Requires the landowner, in addition to the certified prescribed burner on site, to retain a copy of the prescription for the duration of the prescribed burn.
- Requires that the summary of the methods for the prescribed burn contained in the prescription must include firebreaks and sufficient personnel and firefighting equipment to contain the fire within the burn area.

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- Provides that fire spreading outside the authorized burn area on the day of the prescribed burn ignition does not constitute conclusive proof of inadequate firebreaks, insufficient personnel, or a lack of firefighting equipment. This would be a fact-based determination.
- Provides that if the prescribed burn is contained within the authorized burn area during the authorized period, there is a rebuttable presumption that adequate firebreaks, sufficient personnel, and sufficient firefighting equipment were present.
- Provides that continued smoldering of a prescribed burn resulting in a subsequent wildfire does not in itself constitute evidence of gross negligence.
- Specifies that reasonable notice of the prescribed burn must be provided to homes and businesses located adjacent to the burn site, rather than "nearby."

EFFECTIVE DATE:

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