

LEGISLATIVE BILL 248

Approved by the Governor May 17, 2011

Introduced by Dubas, 34.

FOR AN ACT relating to fires; to amend sections 81-520.01, 81-520.03, 81-520.04, and 81-520.05, Reissue Revised Statutes of Nebraska; to change provisions relating to burning permits and range-management burning; to provide for land-management burning; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-520.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-520.01 (1) There shall be a statewide open burning ban on all bonfires, outdoor rubbish fires, and fires for the purpose of clearing land.

(2) The fire chief of a local fire department ~~or his or her designee~~ may waive an open burning ban under subsection (1) of this section for an area under ~~his or her~~ the local fire department's jurisdiction by issuing an open burning permit to a person requesting permission to conduct open burning. The permit issued by the fire chief ~~or his or her designee~~ to a person desiring to conduct open burning shall be in writing, signed by the fire chief, ~~or his or her designee~~, and on a form prescribed by the State Fire Marshal. The State Fire Marshal shall provide local fire departments with such forms.

(3) The fire chief of a local fire department ~~or his or her designee~~ may waive the open burning ban in ~~his or her~~ the local fire department's jurisdiction when conditions are acceptable to the chief, ~~or his or her designee~~. Anyone burning intending to burn in such jurisdiction when the open burning ban has been waived shall notify the fire department chief of his or her intention to burn prior to starting the burn.

(4) The fire chief of a local fire department may adopt ~~and promulgate rules and regulations~~ standards listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.

(5) The local fire department may charge a fee, not to exceed ten dollars, for each such permit issued. This fee shall be remitted to the governing body for inclusion in the general funds allocated to the fire department. Such funds shall not reduce the tax requirements for the fire department. No such fee shall be collected from any state or political subdivision to which such a permit is issued to conduct open burning under subsection (2) of this section in the course of such state's or political subdivision's official duties.

Sec. 2. Section 81-520.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-520.03 (1) For purposes of sections 81-520.01 to 81-520.05, the fire chief of a local fire department may designate a member of the local fire department to share the powers and duties of the fire chief under such sections, except adopting standards pursuant to subsection (4) of section 81-520.01.

(2) For purposes of sections 81-520.04 and 81-520.05, range-management land-management burning shall mean means the controlled application of fire to existing vegetative matter on land utilized for grazing, pasture, forests, or grassland to control weeds, pests, insects, and disease, prevent wildland fires, manage watersheds, care for windbreaks, and conduct scientific research.

Sec. 3. Section 81-520.04, Reissue Revised Statutes of Nebraska, is amended to read:

81-520.04 The fire chief of a local fire department ~~or his or her designee~~ may waive an open burning ban under subsection (1) of section 81-520.01 by issuing a permit for ~~range-management~~ land-management burning only if the ~~range-management~~ land-management burning is to be conducted in accordance with section 81-520.05.

Sec. 4. Section 81-520.05, Reissue Revised Statutes of Nebraska, is amended to read:

81-520.05 (1) A landowner, tenant, or other landowner's agent of the land where ~~range-management~~ land-management burning is proposed shall file an application for a permit and a plan for conducting such burning. The plan shall include:

(a) The name of the landowner of the land on which ~~range-management~~ land-management burning is to occur;

(b) The name of the person who will supervise the ~~range-management~~

land-management burning if such person is different than the landowner;

- (c) The land-management objective to be accomplished;
- (d) A map showing the areas to be burned, including natural and manmade firebreaks;
- (e) Procedures to be used to confine the fire in boundary areas without preexisting firebreaks;
- (f) A list of equipment that will be on hand;
- (g) The types and conditions of the vegetative matter to be burned on the land and in adjacent areas;
- (h) Identification of roads and habitations that may be affected by smoke;
- (i) A description of weather conditions believed to be required to safely and successfully conduct the ~~range-management~~ land-management burning, including wind speed and direction, temperature, and relative humidity; and
- (j) Such other information as may be prescribed by the fire chief of a local fire department.

(2) The fire chief of a local fire department ~~or his or her~~ designee shall evaluate each plan to determine its compliance with subsection (1) of this section. If a plan fails to comply with all provisions of such subsection, a permit for ~~range-management~~ land-management burning shall not be issued.

(3) The fire chief of a local fire department ~~or his or her~~ designee shall issue a permit for ~~range-management~~ land-management burning if (a) the plan complies with subsection (1) of this section and (b) the fire chief ~~or his or her~~ designee determines that ~~range-management~~ land-management burning conducted in accordance with the plan would be conducted with due regard for the safety of people and property outside the burning areas. No permit shall be valid for more than thirty days.

Sec. 5. Original sections 81-520.01, 81-520.03, 81-520.04, and 81-520.05, Reissue Revised Statutes of Nebraska, are repealed.