

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 886

BY SENATORS HAMILTON, DEEDS, MARTIN, PHILLIPS,

THORNE, AND WOODRUM

[Reported February 19, 2026, from the Committee on

Natural Resources]

1 A BILL to amend and reenact §20-3-5a of the Code of West Virginia, 1931, as amended, relating
2 to forests and wildlife areas; modifying the definition for prescribed fire; waiving liability for
3 damage or injury caused by prescribed burns under certain circumstances; and providing
4 for rulemaking for prescribed fire control on private property.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. FORESTS AND WILDLIFE AREAS.

§20-3-5a. Prescribed Fire Program.

1 (a) As used in this section:

2 (1) "Certified prescribed fire manager" means an employee of the Division of Forestry, the
3 Division of Natural Resources, or any federal employee who has successfully completed a
4 certification process established by the director.

5 (2) "Prescribed fire" means the controlled application of fire or wildland fuels in wildlife
6 management areas, state forests or federal lands, or on private property in either the natural or
7 modified state, under specified environmental conditions, which allows the fire to be confined to
8 a predetermined area and produces the fire behavior and fire characteristics necessary to attain
9 planned fire treatment and ecological, silvicultural, and wildlife management objectives.

10 (3) "Prescription" means a written statement defining the objectives to be attained by a
11 prescribed fire and the conditions of temperature, humidity, wind direction and speed, fuel
12 moisture, and soil moisture under which a fire will be allowed to burn. A prescription is generally
13 expressed as an acceptable range of the prescription elements.

14 (b) Director certification process. — The director shall develop and administer a
15 certification process and prescribed burn course for any individual who desires to become a
16 certified prescribed fire manager. The prescribed fire course shall include the following subjects:
17 The legal aspects of prescribed fire, fire behavior, prescribed fire tactics, smoke management,
18 environmental effects, plan preparation, and safety. The director shall give a final examination on

19 these subjects to all attendees. The director may charge a reasonable fee to cover the costs of
20 the prescribed fire course and the examination.

21 (c) To be certified as a certified prescribed fire manager, a person shall:

22 (1) Successfully complete all components of the prescribed fire course developed by the
23 director and pass the examination developed for the course;

24 (2) Successfully complete a prescribed fire course comparable to that developed by the
25 director and pass the examination developed for the course; or

26 (3) Demonstrate relevant past experience, complete a review course, and pass the
27 examination developed for the prescribed fire course.

28 (d) Prescribed burning shall be performed in the following manner:

29 (1) A certified prescribed fire manager shall prepare a prescription for the prescribed fire
30 prior to the burn. The prescription shall include: (A) The landowner's name, address, and
31 telephone number, and the telephone number of the certified prescribed fire manager who
32 prepared the plan; (B) a description of the area to be burned, a map of the area to be burned, the
33 objectives of the prescribed fire, and the desired weather conditions or parameters; (C) a
34 summary of the methods to be used to start, control, and extinguish the prescribed fire; and (D)
35 a smoke management plan. The smoke management plan shall conform to the Department of
36 Environmental Protection's rule, Control of Air Pollution from Combustion of Refuse, 45 CSR 6.
37 A copy of the prescription shall be retained at the site throughout the period of the burning;

38 (2) A certified prescribed fire manager shall directly supervise a prescribed fire and ensure
39 that the prescribed fire is in accordance with the prescription; and

40 (3) The certified prescribed fire manager shall notify the nearest regional office of the
41 division 24 hours prior to the prescribed fire.

42 (e) A prescribed fire manager who conducts a prescribed burn in compliance with the
43 requirements of this article, state air pollution control laws, any rules adopted by the Division of
44 Forestry and the Department of Environmental Protection shall not be liable for damage or injury

45 caused by smoke or fire. This shall not apply whenever a nuisance or damage results from the
46 negligent or improper implementation of the prescribed burn or when the prescribed burn
47 requirements of this section have not been met.

48 ~~(e)~~(f) If the actions of any certified prescribed fire manager or the prescriptions prepared
49 by him or her violate any provision of this article, state air pollution control laws, the Division of
50 Forestry rules, the Department of Environmental Protection rules or laws, or threaten public health
51 and safety, the director may revoke his or her certification.

52 ~~(f)~~(g) The director shall propose rules for promulgation in accordance with the provisions
53 of §29A-3-1 *et seq.* of this code for establishing the procedures for the development of a
54 certification program for prescribed fire managers and for prescribed fire control on private
55 property.