

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 156

An Act to amend and reenact § 10.1-1105 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 11 of Title 10.1 an article numbered 6.1, consisting of sections numbered 10.1-1150.1 through 10.1-1150.6, relating to the establishment of a prescribed burning manager program.

[H 1110]

Approved March 16, 1998

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1105 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 11 of Title 10.1 an article numbered 6.1, consisting of sections numbered 10.1-1150.1 through 10.1-1150.6, as follows:

§ 10.1-1105. Additional powers and duties of State Forester.

The State Forester shall supervise and direct all forest interests and all matters pertaining to forestry within the Commonwealth. He shall have charge of all forest wardens and shall appoint, direct and supervise persons he employs to perform labor in the forest reservations or the nurseries provided for herein. He shall take such action as is authorized by law to prevent and extinguish forest fires; *develop a program to promote the use of prescribed burning for community protection and ecological, silvicultural, and wildlife management*; enforce all laws pertaining to forest and woodlands; prosecute any violation of such laws; develop silvicultural best management practices, including reforestation, prevention of erosion and sedimentation, and maintenance of buffers for water quality, pursuant to Article 12 (§ 10.1-1181.1 et seq.) of this chapter; collect information relative to forest destruction and conditions; direct the protection and improvement of all forest reservations; and, as far as his duties as State Forester will permit, conduct an educational course on forestry at the University of Virginia for credit toward a degree, at farmers' institutes and at similar meetings within the Commonwealth. He shall provide for the protection of state waters from pollution by sediment deposition resulting from silvicultural activities as provided in Article 12 (§ 10.1-1181.1 et seq.) of this chapter. In addition, the State Forester shall cooperate with counties, municipalities, corporations and individuals in preparing plans and providing technical assistance for the protection, management and replacement of trees, wood lots and timber tracts and the establishment and preservation of urban forests, under an agreement that the parties obtaining such assistance shall pay the field and traveling expenses of the person employed in preparing such plans.

Article 6.1.

Certified Prescribed Burning Manager Program.

§ 10.1-1150.1. *Definitions.*

As used in this article unless the context requires a different meaning:

"Certified prescribed burn manager" means any person who has successfully completed a certification process established by the State Forester under § 10.1-1150.2.

"Prescribed burning" means the controlled application of fire or wildland fuels in either the natural or modified state, under specified environmental conditions, which allows a fire to be confined to a predetermined area and produces the fire behavior and fire characteristics necessary to attain planned fire treatment and ecological, silvicultural, and wildlife management objectives.

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

§ 10.1-1150.2. *State Forester to establish certification process.*

The State Forester shall develop and administer a certification process and training course for any individual who desires to become a certified prescribed burn manager. The training program shall include the following subjects: the legal aspects of prescribed burning, fire behavior, prescribed burning tactics, smoke management, environmental effects, plan preparation, and safety. A final examination on these subjects shall be given to all attendees. The State Forester may charge a reasonable fee to cover the costs of the course and the examination.

§ 10.1-1150.3. *Voluntary certification.*

To be certified as a prescribed burn manager, a person shall:

- 1. Successfully complete all components of the prescribed burn course developed by the State Forester and pass the examination developed for the course;*
- 2. Successfully complete a training course comparable to that developed by the State Forester and pass the examination developed for Virginia's course; or*

3. Demonstrate relevant past experience, complete a review course and pass the examination developed for Virginia's course.

§ 10.1-1150.4. Prescribed burn elements.

Prescribed burning shall be performed in the following manner:

1. A prescription for the prescribed burn shall be prepared by a certified prescribed burn manager prior to the burn. The prescription shall include: (i) the landowner's name, address, and telephone number, and the telephone number of the certified prescribed burn manager who prepared the plan; (ii) a description of the area to be burned, a map of the area to be burned, the objectives of the prescribed burn, and the desired weather conditions or parameters; (iii) a summary of the methods to be used to start, control, and extinguish the prescribed burn; and (iv) a smoke management plan. The smoke management plan shall be based on guidelines presented in the Virginia Department of Forestry publication, "Voluntary Smoke Management Guidelines for Virginia," and the U.S. Forest Service's technical publication, "A Guide to Prescribed Fire in Southern Forests." A copy of the prescription shall be retained at the site throughout the period of the burning;

2. Prescribed burning shall be conducted under the direct supervision of a certified prescribed burn manager, who shall ensure that the prescribed burning is in accordance with the prescription; and

3. The nearest regional office of the Virginia Department of Forestry shall be notified prior to the burn.

§ 10.1-1150.5. Liability.

A. Any prescribed burning conducted in compliance with the requirements of this article, state air pollution control laws, and any rules adopted by the Virginia Department of Forestry shall be in the public interest and shall not constitute a nuisance.

B. Any landowner or his agent who conducts a prescribed burn in compliance with the requirements of this article, state air pollution control laws, and any rules adopted by the Virginia Department of Forestry shall not be liable for any damage or injury caused by or resulting from smoke.

C. Subsections A and B of this section shall not apply whenever a nuisance or damage results from the negligent or improper conduct of the prescribed burn or when the prescribed burn elements described in § 10.1-1150.4 have not been complied with.

§ 10.1-1150.6. Revocation of certification.

If the actions of any certified prescribed burn manager or the prescriptions prepared by him violate any provision of this article, state air pollution control laws, or Virginia Department of Forestry rules or threaten public health and safety, his certification may be revoked by the State Forester.