

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4049

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 51701 and 51702 (MCL 324.51701 and
324.51702), as added by 1995 PA 57, and by adding sections 51703,
51704, and 51705.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 51701. ~~The state or a department, bureau, board, com-~~
2 ~~mission, or other agency of the state or a political subdivision~~
3 ~~of the state shall not enact, adopt, promulgate, enforce, or~~
4 ~~practice any law, rule, policy, or concept that creates or tends~~
5 ~~to create a condition that promotes, fosters, or leads or may~~
6 ~~tend to promote, foster, or lead to the beginning or spreading of~~
7 ~~a forest fire that could jeopardize the public trust in the~~
8 ~~forests of the state or any private land contiguous to the~~
9 ~~forests of the state, except as may be required for the~~

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1 ~~protection of the public health, safety, and welfare, or as~~
2 ~~prescribed for forest management or wildlife management programs~~
3 ~~under the authority of the department.~~ AS USED IN THIS PART:

4 (A) "DEPARTMENT" MEANS THE DIRECTOR OF THE DEPARTMENT OF
5 NATURAL RESOURCES OR HIS OR HER DESIGNEE.

6 (B) "PRESCRIBED BURN" MEANS A FIRE THAT IS INTENTIONALLY SET
7 BY THE DEPARTMENT IN A FOREST AREA ON STATE OWNED PROPERTY OR
8 PRIVATELY OWNED PROPERTY TO ASSIST THE DEPARTMENT IN IMPLEMENTING
9 1 OR MORE LAND USE MANAGEMENT GOALS.

10 (C) "PROJECTED BURN AREA" MEANS THE AREA IN WHICH A PRE-
11 SCRIBED BURN IS EXPECTED TO OCCUR.

12 Sec. 51702. (1) THE STATE OR A DEPARTMENT, BUREAU, BOARD,
13 COMMISSION, OR OTHER AGENCY OF THE STATE OR A POLITICAL SUBDIVI-
14 SION OF THE STATE SHALL NOT ENACT, ADOPT, PROMULGATE, ENFORCE, OR
15 PRACTICE ANY LAW, RULE, POLICY, OR CONCEPT THAT CREATES OR TENDS
16 TO CREATE A CONDITION THAT PROMOTES, FOSTERS, OR LEADS OR MAY
17 TEND TO PROMOTE, FOSTER, OR LEAD TO THE BEGINNING OR SPREADING OF
18 A FOREST FIRE THAT COULD JEOPARDIZE THE PUBLIC TRUST IN THE FOR-
19 ESTS OF THE STATE OR ANY PRIVATE LAND CONTIGUOUS TO THE FORESTS
20 OF THE STATE, EXCEPT AS MAY BE REQUIRED FOR THE PROTECTION OF THE
21 PUBLIC HEALTH, SAFETY, AND WELFARE, OR AS PRESCRIBED FOR FOREST
22 MANAGEMENT OR WILDLIFE MANAGEMENT PROGRAMS UNDER THE AUTHORITY OF
23 THE DEPARTMENT.

24 (2) To the extent authorized by law, all acts and parts of
25 acts or rules promulgated pursuant to acts or parts that are
26 inconsistent with this part are repealed.

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1 SEC. 51703. (1) THE DEPARTMENT SHALL NOT CONDUCT A
2 PRESCRIBED BURN OF MORE THAN 40 ACRES IN THIS STATE IN A YEAR
3 UNLESS THE DEPARTMENT FIRST CONDUCTS AT LEAST 1 PUBLIC MEETING IN
4 THAT YEAR IN A COUNTY IN THE PROJECTED BURN AREA. THE PUBLIC
5 MEETING SHALL BE CONDUCTED TO ALERT MEMBERS OF THE PUBLIC THAT 1
6 OR MORE PRESCRIBED BURNS MAY OCCUR AND WHAT THE PURPOSE AND
7 ANTICIPATED CONSEQUENCES OF THE PRESCRIBED BURN WILL BE. IN
8 ADDITION, MEMBERS OF THE PUBLIC SHALL HAVE AN OPPORTUNITY AT THE
9 PUBLIC MEETING TO EXPRESS THEIR CONCERNS AND OPINIONS REGARDING A
10 PRESCRIBED BURN.

11 (2) FOR A PRESCRIBED BURN OF MORE THAN 40 ACRES, IN ADDITION
12 TO THE REQUIREMENT FOR A PUBLIC MEETING UNDER SUBSECTION (1), THE
13 DEPARTMENT SHALL NOTIFY EACH LOCAL FIRE DEPARTMENT WITH JURISDIC-
14 TION OVER THE PROJECTED BURN AREA AND SHALL PUBLISH A PUBLIC
15 NOTICE IN A NEWSPAPER WITH A GENERAL CIRCULATION COVERING THE
16 PROJECTED BURN AREA THAT A PRESCRIBED BURN IS SCHEDULED TO OCCUR
17 WITHIN A DESIGNATED 60-DAY PERIOD. THE NOTIFICATION AND PUBLICA-
18 TION SHALL TAKE PLACE NOT LESS THAN 2 WEEKS BEFORE THE FIRST DAY
19 OF THE 60-DAY PERIOD. THE NOTICE PUBLISHED UNDER THIS SUBSECTION
20 SHALL BE DRAFTED IN THE MANNER THAT THE DEPARTMENT DETERMINES IS
21 BEST SUITED TO PROVIDE NOTICE TO RESIDENTS IN OR NEAR THE
22 PROJECTED BURN AREA.

23 SEC. 51704. (1) EXCEPT AS PROVIDED IN SUBSECTION (3), THE
24 DEPARTMENT SHALL NOT CONDUCT A PRESCRIBED BURN ON PRIVATELY OWNED
25 PROPERTY.

26 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), THE DEPARTMENT
27 SHALL NOT CONDUCT A PRESCRIBED BURN OF MORE THAN 40 ACRES UNLESS

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1 THERE IS AT LEAST A 100-FOOT BUFFER ZONE BETWEEN THE PROJECTED
2 BURN AREA AND ANY PRIVATE PROPERTY ADJOINING THE PROPERTY ON
3 WHICH THE PROJECTED BURN AREA IS LOCATED.

4 (3) A PRIVATE PROPERTY OWNER MAY CONSENT IN WRITING TO 1 OR
5 MORE OF THE FOLLOWING:

6 (A) A PRESCRIBED BURN ON ALL OR A PORTION OF HIS OR HER
7 PROPERTY CONDUCTED BY THE DEPARTMENT.

8 (B) A WAIVER OR SPECIFIED REDUCTION OF THE 100-FOOT BUFFER
9 ZONE.

10 (4) THE DEPARTMENT SHALL NOT INTENTIONALLY CONDUCT A PRE-
11 SCRIBED BURN WITHIN A BUFFER ZONE ESTABLISHED UNDER THIS
12 SECTION.

13 SEC. 51705. IF A PROJECTED BURN AREA ADJOINS A STATE TRUNK
14 LINE HIGHWAY OR COUNTY ROAD, THE DEPARTMENT SHALL CONSIDER
15 EXCLUDING FROM THE PRESCRIBED BURN AN AREA ALONG THE HIGHWAY OR
16 ROAD TO SERVE AS A BUFFER ZONE.