

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 248

Introduced by Dubas, 34.

Read first time January 11, 2011

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to fires; to amend sections 81-520.01, 81-520.03,
2 81-520.04, and 81-520.05, Reissue Revised Statutes of
3 Nebraska; to change provisions relating to burning
4 permits and range-management burning; to provide for
5 land-management burning; to harmonize provisions; and to
6 repeal the original sections.

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

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

3 81-520.01 (1) There shall be a statewide open burning ban
4 on all bonfires, outdoor rubbish fires, and fires for the purpose of
5 clearing land.

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

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

23 (4) The fire chief of a local fire department may adopt
24 ~~and promulgate rules and regulations~~ standards listing the conditions
25 acceptable for issuing a permit to conduct open burning under

1 subsection (2) of this section.

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

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

13 81-520.03 (1) For purposes of sections 81-520.01 to
14 81-520.05, the fire chief of a local fire department may designate a
15 member of the local fire department to share the powers and duties of
16 the fire chief under such sections, except adopting standards
17 pursuant to subsection (4) of section 81-520.01.

18 (2) For purposes of sections 81-520.04 and 81-520.05,
19 range-management—land-management burning shall—mean—means the
20 controlled application of fire (a) to existing vegetative matter on
21 grassland, pasture, or other land utilized for grazing, (b) to
22 control weeds, pests, insects, and disease in grassland, pasture, or
23 forest, (c) to prevent wildland fires, and (d) to manage watersheds,
24 windbreaks, and forests.

25 Sec. 3. Section 81-520.04, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 81-520.04 The fire chief of a local fire department ~~or~~
3 ~~his or her designee~~ may waive an open burning ban under subsection
4 (1) of section 81-520.01 by issuing a permit for ~~range-management~~
5 land-management burning only if the ~~range-management~~ land-management
6 burning is to be conducted in accordance with section 81-520.05.

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

9 81-520.05 (1) A landowner, tenant, or other landowner's
10 agent of the land where ~~range-management~~ land-management burning is
11 proposed shall file an application for a permit and a plan for
12 conducting such burning. The plan shall include:

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

15 (b) The name of the person who will supervise the ~~range-~~
16 ~~management~~ land-management burning if such person is different than
17 the landowner;

18 (c) The land-management objective to be accomplished;

19 (d) A map showing the areas to be burned, including
20 natural and manmade firebreaks;

21 (e) Procedures to be used to confine the fire in boundary
22 areas without preexisting firebreaks;

23 (f) A list of equipment that will be on hand;

24 (g) The types and conditions of the vegetative matter to
25 be burned on the land and in adjacent areas;

1 (h) Identification of roads and habitations that may be
2 affected by smoke;

3 (i) A description of weather conditions believed to be
4 required to safely and successfully conduct the ~~range-management~~
5 land-management burning, including wind speed and direction,
6 temperature, and relative humidity; and

7 (j) Such other information as may be prescribed by the
8 fire chief of a local fire department.

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

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

22 Sec. 5. Original sections 81-520.01, 81-520.03,
23 81-520.04, and 81-520.05, Reissue Revised Statutes of Nebraska, are
24 repealed.