

A-Engrossed
House Bill 2572

Ordered by the House April 15
Including House Amendments dated April 15

Sponsored by Representative MARSH, Senator DEMBROW, Representative SMITH DB; Representatives HELM, REARDON, Senators FREDERICK, GOLDEN (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Provides that spread of fire in forestland across ownership boundary does not constitute prima facie evidence of fire burning uncontrolled if owners or operators of forestland on both sides of ownership boundary agree in advance to conduct prescribed fire.]

[Provides that owner or operator of forestland on which prescribed fire exists need not extinguish fire if owners or operators of forestland on both sides of ownership boundary agree in advance of fire that fire may be conducted as prescribed fire and fire remains on forestland of owners or operators that agreed to fire. Prohibits State Forester from determining that fire that spreads across ownership boundary is burning uncontrolled if owners or operators of forestland on both sides of boundary agree in advance to conduct prescribed fire and fire remains on forestland of owners or operators that agreed to fire.]

[Provides that person does not commit offense of unlawful use of fire if person has knowledge of prescribed fire burning on person's own land and does not extinguish prescribed fire.]

Directs State Forestry Department to adopt certain rules related to prescribed fires. Provides that department must initiate rulemaking on or before November 30, 2021, and finalize rulemaking on or before November 30, 2022.

Requires State Board of Forestry, by December 1, 2021, to consult with Oregon Prescribed Fire Council concerning best practices for conducting Certified Burn Manager program, to initiate rulemaking to establish program and to report to appropriate committee or subcommittee of Legislative Assembly on progress in establishing and implementing program.

Appropriates moneys to board for purpose of establishing and implementing program.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to prescribed fires; creating new provisions; amending ORS 526.360; and prescribing an ef-
3 fective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. The State Forestry Department shall adopt rules to clarify that a person**
6 **may:**

7 (1) **Conduct a prescribed fire that burns across land ownership boundaries if the person**
8 **obtains a permit for the fire as described in ORS 477.515 or 477.625 and complies with the**
9 **conditions of the permit.**

10 (2) **Obtain a single permit under ORS 477.515 or 477.625 for a prescribed fire that burns**
11 **across land ownership boundaries if the person demonstrates to the department that the**
12 **person has obtained consent to conduct the fire from all persons on whose lands the fire is**
13 **planned to burn.**

14 **SECTION 2. The State Forestry Department shall initiate the rulemaking described in**
15 **section 1 of this 2021 Act on or before November 30, 2021, and finalize the rulemaking on or**
16 **before November 30, 2022.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **SECTION 3.** ORS 526.360 is amended to read:

2 526.360. (1) The State Board of Forestry, [*and the forester*] **the State Forester and forest**
3 **protective associations** may assist to the extent [*possible*] **practical** in developing, for forestry,
4 grazing or agricultural uses, all forestland classified pursuant to ORS 526.328 or 526.340 for such
5 uses, including the burning of brush or other flammable material for the purpose of:

6 (a) Removing a fire hazard to any property;

7 (b) Preparing seed beds;

8 (c) Removing obstructions to or interference with the proper seeding or agricultural or grazing
9 development or use of that land;

10 (d) Promoting the establishment of new forest crops on cutover, denuded or underproductive
11 lands;

12 (e) Implementing pest prevention and suppression activities, as provided in ORS 527.310 to
13 527.370; or

14 (f) Promoting improvements to forest health, including improvements to fish and wildlife habitat.

15 (2) Upon request of the owner or the agent of the owner of any forestland classified pursuant
16 to ORS 526.328 or 526.340, the forester **or a forest protective association** may perform or super-
17 vise burning operations thereon for any of the purposes stated in subsection (1) of this section. The
18 owner or the agent of the owner shall supply such personnel and equipment and shall perform such
19 fire control actions and activities as the forester **or forest protective association** may require
20 while there is danger of the fire spreading. The forester **or forest protective association** may re-
21 fuse to perform or supervise burning or to issue any burning permit when, in the judgment of the
22 forester **or forest protective association**, conditions so warrant.

23 (3) To accomplish the purposes set forth in subsection (1) of this section, the [*State Board of*
24 *Forestry may*] **board shall** establish by rule a Certified Burn Manager program.

25 (4) The rules shall include:

26 (a) Certification standards, requirements and procedures;

27 (b) Standards, requirements and procedures to revoke certification;

28 (c) Actions and activities that a Certified Burn Manager must perform;

29 (d) Actions and activities that a Certified Burn Manager may not allow or perform;

30 (e) Limitations on the use of a Certified Burn Manager; and

31 (f) Any other standard, requirement or procedure that the board considers necessary for the safe
32 and effective administration of the program.

33 (5) **The rules may establish and impose fees for participation in the program.**

34 [(4)] (6) When [*any*] a burning for any of the purposes stated in subsection (1) of this section on
35 forestland classified pursuant to ORS 526.328 or 526.340 is started under the supervision of and
36 supervised by the forester, **a forest protective association** or a Certified Burn Manager, [*no*] a
37 person [*shall*] **may not** be **held** liable for property damage resulting from that burning unless the
38 damage is caused by the negligence of the person.

39 **SECTION 4. By December 1, 2021, the State Board of Forestry shall:**

40 (1) **Consult with the Oregon Prescribed Fire Council concerning best practices for con-**
41 **ducting the Certified Burn Manager program described in ORS 526.360;**

42 (2) **Initiate rulemaking to establish the program; and**

43 (3) **Report in the manner provided in ORS 192.245 to an appropriate committee or sub-**
44 **committee of the Legislative Assembly on progress the board has made in establishing and**
45 **implementing the program and when the board expects to launch the program.**

1 **SECTION 5.** There is appropriated to the State Board of Forestry, for the biennium be-
2 ginning July 1, 2021, out of the General Fund, the amount of \$_____ for the purpose of
3 establishing and implementing the Certified Burn Manager program described in ORS 526.360.

4 **SECTION 6.** This 2021 Act takes effect on the 91st day after the date on which the 2021
5 regular session of the Eighty-first Legislative Assembly adjourns sine die.

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