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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2013	.	
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Appropriations Subcommittee on General Government (Simpson)
recommended the following:

Senate Amendment

Delete lines 905 - 1024
and insert:
across the authorized area into entirely unburned fuels within
the authorized area ~~Wildland burning or certified prescribed~~
~~burning, no spreading flames exist.~~

2. Certified pile ~~Vegetative land-clearing debris~~ burning
or pile burning, no visible flames exist.

3. Certified pile ~~Vegetative land-clearing debris~~ burning
or pile burning in an area designated as smoke sensitive by the
Florida Forest Service, no visible flames, smoke, or emissions



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13 exist.

14 (g) "Gross negligence" means conduct so reckless or wanting
15 in care that it constitutes a conscious disregard or
16 indifference to the life, safety, or rights of persons exposed
17 to such conduct.

18 ~~(d) "Land-clearing operation" means the uprooting or~~
19 ~~clearing of vegetation in connection with the construction of~~
20 ~~buildings and rights-of-way, land development, and mineral~~
21 ~~operations. The term does not include the clearing of yard~~
22 ~~trash.~~

23 (h)(e) "Pile burning" means the burning of silvicultural,
24 agricultural, ~~or~~ land-clearing, or ~~and~~ tree-cutting debris
25 originating onsite, which is stacked together in a round or
26 linear fashion, including, but not limited to, a windrow. Pile
27 burning authorized by the Florida Forest Service is a temporary
28 procedure, which operates on the same site for 6 months or less.

29 (i) "Pile burn plan" means a written plan establishing the
30 method of conducting a certified pile burn.

31 (j)(f) "Prescribed burning" means the ~~controlled~~
32 application of fire by broadcast burning ~~in accordance with a~~
33 written prescription for vegetative fuels under specified
34 environmental conditions, while following appropriate
35 precautionary measures to guard against the spread of fire
36 beyond ~~that ensure that the fire is confined to~~ a predetermined
37 area to accomplish the planned fire or land management
38 objectives.

39 (k)(g) "Prescription" means a written plan establishing the
40 conditions and method for conducting ~~criteria necessary for~~
41 starting, ~~controlling, and extinguishing~~ a certified prescribed



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42 burn.

43 (1) "Smoldering" means the continued consumption of fuels,
44 which may emit flames and smoke, after a fire is contained.

45 (m) ~~(h)~~ "Yard trash" means vegetative matter resulting from
46 landscaping and yard maintenance operations and other such
47 routine property cleanup activities. The term includes materials
48 such as leaves, shrub trimmings, grass clippings, brush, and
49 palm fronds.

50 (2) NONCERTIFIED BURNING.—

51 (a) Persons may be authorized to broadcast burn or pile
52 ~~burn wild land or vegetative land-clearing debris~~ in accordance
53 with this subsection if:

54 1. There is specific consent of the landowner or his or her
55 designee;

56 2. Authorization has been obtained from the Florida Forest
57 Service or its designated agent before starting the burn;

58 3. There are adequate firebreaks at the burn site and
59 sufficient personnel and firefighting equipment for the
60 containment control of the fire;

61 4. The fire remains within the boundary of the authorized
62 area;

63 5. The person named responsible in the burn authorization
64 or a designee ~~An authorized person~~ is present at the burn site
65 until the fire is completed ~~extinguished~~;

66 6. The Florida Forest Service does not cancel the
67 authorization; and

68 7. The Florida Forest Service determines that air quality
69 and fire danger are favorable for safe burning.

70 (b) A person who broadcast burns or pile burns ~~wild land or~~



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71 ~~vegetative land-clearing debris~~ in a manner that violates any
72 requirement of this subsection commits a misdemeanor of the
73 second degree, punishable as provided in s. 775.082 or s.
74 775.083.

75 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND
76 PURPOSE.—

77 (b) Certified prescribed burning pertains only to broadcast
78 burning for purposes of silviculture, wildland fire hazard
79 reduction, wildlife management, ecological maintenance and
80 restoration, and agriculture range and pasture management. It
81 must be conducted in accordance with this subsection and:

82 1. May be accomplished only when a certified prescribed
83 burn manager is present on site with a copy of the prescription
84 and directly supervises the certified prescribed burn until the
85 burn is completed, after which the certified prescribed burn
86 manager is not required to be present from ignition of the burn
87 to its completion.

88 2. Requires that a written prescription be prepared before
89 receiving authorization to burn from the Florida Forest Service.

90 a. A new prescription or authorization is not required for
91 smoldering that occurs within the authorized burn area unless
92 new ignitions are conducted by the certified prescribed burn
93 manager.

94 b. Monitoring the smoldering activity of a certified
95 prescribed burn does not require a prescription or an additional
96 authorization even if flames begin to spread within the
97 authorized burn area due to ongoing smoldering.

98 3. Requires that the specific consent of the landowner or
99 his or her designee be obtained before requesting an



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100 authorization.

101 4. Requires that an authorization to burn be obtained from
102 the Florida Forest Service before igniting the burn.

103 5. Requires that there be adequate firebreaks at the burn
104 site and sufficient personnel and firefighting equipment to
105 contain for the control of the fire within the authorized burn
106 area.

107 a. Fire spreading outside the authorized burn area on the
108 day of the certified prescribed burn ignition does not
109 constitute conclusive proof of inadequate firebreaks,
110 insufficient personnel, or a lack of firefighting equipment.

111 b. If the certified prescribed burn is contained within the
112 authorized burn area during the authorized period, a strong
113 rebuttable presumption shall exist that adequate firebreaks,
114 sufficient personnel, and sufficient firefighting equipment were
115 present.

116 c. Continued smoldering of a certified prescribed burn
117 resulting in a subsequent wildfire does not by itself constitute
118 evidence of gross negligence under this section.

119 6. Is considered to be in the public interest and does not
120 constitute a public or private nuisance when conducted under
121 applicable state air pollution statutes and rules.

122 7. Is considered to be a property right of the property
123 owner if vegetative fuels are burned as required in this
124 subsection.

125 (c) ~~Neither~~ A property owner or leaseholder, ~~nor~~ his or her
126 agent,