

By Senator Smith

31-01059-16

20161214__

1 A bill to be entitled
2 An act relating to the Community Yard Trash Safe Burn
3 Program; creating s. 590.126, F.S.; providing
4 legislative intent and findings; defining terms;
5 creating the Community Yard Trash Safe Burn Program
6 within the Florida Forest Service; requiring the
7 Department of Agriculture and Consumer Services to
8 adopt minimum standards for community burn plans;
9 authorizing homeowners' associations to create
10 community burn plans and establish one or more
11 community burn locations; establishing conditions
12 homeowners' associations must meet before commencing
13 community burns; requiring the service to issue a burn
14 permit when certain requirements are met; requiring
15 homeowners' associations to comply with community burn
16 plans; authorizing homeowners' associations to enforce
17 the community burn plan; authorizing the service to
18 take specified action upon a determination by the
19 department that a homeowners' association has failed
20 to reasonably oversee compliance with a community burn
21 plan; requiring the department to adopt rules by a
22 specified date; providing an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Section 590.126, Florida Statutes, is created to
27 read:

28 590.126 Community Yard Trash Safe Burn Program.-

29 (1) LEGISLATIVE INTENT AND FINDINGS.-It is the intent of
30 the Legislature to allow homeowners' associations in this state
31 to establish locations within their respective communities for
32 burning yard trash. The Legislature finds that having such

31-01059-16

20161214__

33 locations can significantly reduce the risk of wildfires
34 resulting from burning residential yard waste and vegetative
35 debris by having an established location for such burns which is
36 certified as safe and properly managed.

37 (2) DEFINITIONS.—As used in this section, the term:

38 (a) "Community burn location" means a burn pile location
39 established and certified by the service for the purpose of open
40 burning of yard trash.

41 (b) "Community burn plan" means a plan filed by a
42 homeowners' association with the service. At a minimum, the plan
43 must include:

44 1. Each community burn location, including a site map of
45 such location or locations.

46 2. Qualifications of individuals authorized to manage or
47 conduct community burns.

48 3. Plans for managing wildfire risks, smoke, and other
49 hazards, nuisances, or environmental impacts.

50 4. Enforcement provisions to ensure resident compliance.

51 5. Other information as required by the service.

52 (c) "Community burns" means the burning of residential yard
53 trash at a community burn location which is conducted in
54 accordance with an approved community burn plan.

55 (d) "Homeowners' association" has the same meaning as
56 provided in s. 720.301.

57 (e) "Service" means the Florida Forest Service of the
58 Department of Agriculture and Consumer Services.

59 (f) "Yard trash" has the same meaning as provided in s.
60 590.125(1).

61 (3) CREATION AND PROGRAM REQUIREMENTS.—

31-01059-16

20161214__

62 (a) The Community Yard Trash Safe Burn Program is created
63 in the Florida Forest Service of the Department of Agriculture
64 and Consumer Services. The department shall adopt by rule
65 minimum standards for community burn plans developed under this
66 section. At a minimum, these standards must include:

67 1. A communitywide ban on the burning of yard trash by
68 individual residents outside prescribed community burn
69 locations.

70 2. Reasonable setbacks from wildlands, brush, combustible
71 structures, and public thoroughfares.

72 3. Minimum qualifications for individuals authorized to
73 manage and conduct community burns.

74 4. Reasonable requirements for managing wildfire risks,
75 smoke, and other hazards, nuisances, or environmental impacts.

76 5. Requirements for ensuring and enforcing resident
77 compliance with community burn plans. Plan enforcement may
78 include the levying of fines, the suspension of use rights, and
79 other remedies as allowed by law to homeowners' associations.
80 Such remedies must be implemented in compliance with chapter 720
81 and other state law.

82 (b) Homeowners' associations may establish one or more
83 community burn locations for the use of the community's
84 residents to dispose of yard trash. Before commencing community
85 burns, the homeowners' association must do all of the following:

86 1. Apply and be approved for a permit by the service.

87 2. Have an approved community burn plan on file with the
88 service.

89 3. Ensure that all burns are in compliance with the
90 approved community burn plan.

31-01059-16

20161214__

91 4. Ensure that all burns are in compliance with local,
92 municipal, and county ordinances governing open burning.

93 (c) Upon approval by the service of a community burn plan
94 and compliance by the homeowners' association with any
95 additional requirements established by the service, the service
96 shall issue to the homeowners' association a permit granting
97 authorization to conduct community burns.

98 (4) ENFORCEMENT.—

99 (a) Upon service approval, the homeowners' association may
100 enforce the community burn plan by levying fines, suspending use
101 rights, and taking other action as allowed by law and approved
102 by the service as part of the community burn plan. Enforcement
103 of these remedies must comply with chapter 720 and all other
104 state law.

105 (b) Upon a final order finding that the homeowners'
106 association has failed to reasonably oversee compliance with a
107 community burn plan, including failure to enforce burn
108 restrictions, the service may suspend or revoke the permit until
109 the service deems the homeowners' association willing and able
110 to comply with an approved community burn plan. The service may
111 also assess costs and attorney fees upon issuance of a final
112 order finding that a homeowners' association has failed to
113 reasonably comply with the community burn plan. The service may,
114 at its discretion, require that such costs and fees be repaid by
115 the homeowners' association before reinstating the permit.

116 (5) RULEMAKING.—By July 1, 2017, the department shall adopt
117 rules to administer this section.

118 Section 2. This act shall take effect July 1, 2016.