

LEGISLATIVE BILL 408

Approved by the Governor April 18, 1994

Introduced by Cudaback, 36

AN ACT relating to open burning; to amend section 81-520.01, Reissue Revised Statutes of Nebraska, 1943, and section 81-520.02, Revised Statutes Supplement, 1992; to change provisions relating to permits and a ban; to define a term; to provide for rules and regulations and for a fee; to provide for range-management burning by permit as prescribed; to change a penalty; and to repeal the original sections.

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

Section 1. That section 81-520.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

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

(3) The fire chief of a local fire department or his or her designee may waive the open burning ban in his or her district jurisdiction when conditions are acceptable to the chief or his or her designee. Anyone burning in such district jurisdiction when the open burning ban has been waived must shall notify the fire department of his or her intention to burn.

(4) The fire chief of a local fire department may adopt and promulgate rules and regulations listing the conditions acceptable for issuing a permit to conduct open burning under subsection (2) of this section.

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

Sec. 2. That section 81-520.02, Revised Statutes Supplement, 1992, be amended to read as follows:

81-520.02. Any person violating the statewide open burning ban established by section 81-520.01 or violating sections 3 to 5 of this act shall be guilty of a Class V IV misdemeanor.

Sec. 3. For purposes of sections 4 and 5 of this act, range-management burning shall mean the controlled application of fire to existing vegetative matter on land utilized for grazing.

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

Sec. 5. (1) A landowner, tenant, or other landowner's agent of the land where range-management burning is proposed shall file an application for a permit and a plan for conducting such burning. The plan shall include:

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6. That original section 81-520.01, Reissue Revised Statutes of Nebraska, 1943, and section 81-520.02, Revised Statutes Supplement, 1992, are repealed.