

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

**Enrolled
Committee Substitute
for**

Senate Bill 886

BY SENATORS HAMILTON, DEEDS, MARTIN, PHILLIPS,

THORNE, AND WOODRUM

[Passed March 14, 2026; in effect 90 days from
passage (June 12, 2026)]

FILED

2026 APR - 1 P 10: 37

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SB 886

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1 AN ACT to amend and reenact §20-3-5a of the Code of West Virginia, 1931, as amended, relating
2 to forests and wildlife areas; modifying the definition for prescribed fire; waiving liability for
3 damage or injury caused by prescribed burns under certain circumstances; and providing
4 for rulemaking for prescribed fire control on private property.

Be it enacted by the Legislature of West Virginia:

ARTICLE 3. FORESTS AND WILDLIFE AREAS.

§20-3-5a. Prescribed Fire Program.

1 (a) As used in this section:

2 (1) "Certified prescribed fire manager" means an employee of the Division of Forestry, the
3 Division of Natural Resources, any federal employee, or individual who has successfully
4 completed a certification process established by the director.

5 (2) "Prescribed fire" means the controlled application of fire or wildland fuels in wildlife
6 management areas, state forests or federal lands, or on private property in either the natural or
7 modified state, under specified environmental conditions, which allows the fire to be confined to
8 a predetermined area and produces the fire behavior and fire characteristics necessary to attain
9 planned fire treatment and ecological, silvicultural, and wildlife management objectives.

10 (3) "Prescription" means a written statement defining the objectives to be attained by a
11 prescribed fire and the conditions of temperature, humidity, wind direction and speed, fuel
12 moisture, and soil moisture under which a fire will be allowed to burn. A prescription is generally
13 expressed as an acceptable range of the prescription elements.

14 (b) Director certification process. — The director shall develop and administer a
15 certification process and prescribed burn course for any individual who desires to become a
16 certified prescribed fire manager. The prescribed fire course shall include the following subjects:
17 The legal aspects of prescribed fire, fire behavior, prescribed fire tactics, smoke management,
18 environmental effects, plan preparation, and safety. The director shall give a final examination on

these subjects to all attendees. The director may charge a reasonable fee to cover the costs of the prescribed fire course and the examination.

(c) To be certified as a certified prescribed fire manager, a person shall:

(1) Successfully complete all components of the prescribed fire course developed by the director and pass the examination developed for the course;

(2) Successfully complete a prescribed fire course comparable to that developed by the director and pass the examination developed for the course; or

(3) Demonstrate relevant past experience, complete a review course, and pass the examination developed for the prescribed fire course.

(d) Prescribed burning shall be performed in the following manner:

(1) A certified prescribed fire manager shall prepare a prescription for the prescribed fire prior to the burn. The prescription shall include: (A) The landowner's name, address, and telephone number, and the telephone number of the certified prescribed fire manager who prepared the plan; (B) a description of the area to be burned, a map of the area to be burned, the objectives of the prescribed fire, and the desired weather conditions or parameters; (C) a summary of the methods to be used to start, control, and extinguish the prescribed fire; and (D) a smoke management plan. The smoke management plan shall conform to the Department of Environmental Protection's rule, Control of Air Pollution from Combustion of Refuse, 45 CSR 6. A copy of the prescription shall be retained at the site throughout the period of the burning;

(2) A certified prescribed fire manager shall directly supervise a prescribed fire and ensure that the prescribed fire is in accordance with the prescription; and

(3) The certified prescribed fire manager shall notify the nearest regional office of the division 24 hours prior to the prescribed fire.

(e) A certified prescribed fire manager who conducts a prescribed burn in compliance with the requirements of this article, state air pollution control laws, any rules adopted by the Division of Forestry and the Department of Environmental Protection shall not be liable for damage or

45 injury caused by smoke or fire. This shall not apply whenever a nuisance or damage results from
46 the negligent or improper implementation of the prescribed burn or when the prescribed burn
47 requirements of this section have not been met.

48 (f) If the actions of any certified prescribed fire manager or the prescriptions prepared by
49 him or her violate any provision of this article, state air pollution control laws, the Division of
50 Forestry rules, the Department of Environmental Protection rules or laws, or threaten public health
51 and safety, the director may revoke his or her certification.

52 (g) The director shall propose rules for promulgation in accordance with the provisions of
53 §29A-3-1 *et seq.* of this code for establishing the procedures for the development of a certification
54 program for prescribed fire managers and for prescribed fire control on private property.

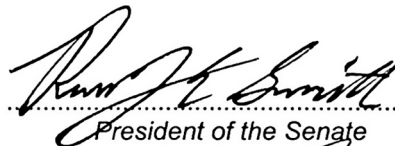
The Clerk of the Senate and the Clerk of the House of Delegates hereby certify that the foregoing bill is correctly enrolled.

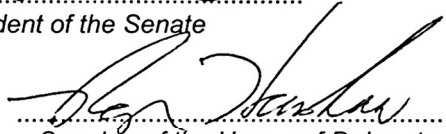

Clerk of the Senate


Clerk of the House of Delegates

Originated in the Senate.

In effect 90 days from passage.


President of the Senate


Speaker of the House of Delegates

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

2026 APR - 1 P 10:37

FILED

The within is approved this the 1st
Day of April, 2026.


Governor

PRESENTED TO THE GOVERNOR

MAR 19 2013

Time 11:20am