

2024 Regular Session

SENATE BILL NO. 81

BY SENATOR ALLAIN

FORESTRY. Provides for prescribed burning by non-certified prescribed burn managers.  
(gov sig)

1 AN ACT

2 To enact R.S. 3:17.1, relative to prescribed burning by non-certified prescribed burn  
3 managers; to provide relative to permits from the office of forestry; to provide for  
4 permit requirements; to provide for the authorization of the commissioner of  
5 agriculture and forestry to promulgate rules and regulations; to provide for certain  
6 fees; to provide for penalties; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 3:17.1 is hereby enacted to read as follows:

9 **§17.1. Prescribed burning by non-certified prescribed burn managers**

10 **A. The provisions of this Section shall only be applicable to any**  
11 **prescribed burning that is not conducted in accordance with the provisions of**  
12 **R.S. 3:17. As used in this Section, "non-certified prescribed burn manager"**  
13 **means an individual that has not successfully completed the certification**  
14 **program of the Louisiana State University Agricultural Center or other**  
15 **approved program and is not certified by the Department of Agriculture and**  
16 **Forestry.**

17 **B. A non-certified prescribed burn manager, prior to conducting a**

1 prescribed burn, shall provide the office of forestry with the location, date, and  
2 time of the prescribed burn. The office of forestry shall review the information  
3 and the non-certified prescribed burn manager shall agree to follow the relevant  
4 smoke management guidelines as approved by the department in order for the  
5 notification to be accepted.

6 C. The commissioner of agriculture and forestry is authorized to  
7 promulgate rules and regulations in accordance with the Administrative  
8 Procedure Act to carry out the intent and purposes of this Section.

9 D. Prescribed burning conducted in accordance with the provisions of  
10 this Section shall not entitle the non-certified prescribed burn manager with a  
11 rebuttable presumption of non-negligence.

12 E. The provisions of this Section shall not apply to the burning of leaf  
13 piles, yard debris, or hand-piled natural vegetation.

14 F. Any person who violates this Section or any rule or regulation adopted  
15 pursuant to this Section may be subject to a civil penalty not to exceed two  
16 hundred fifty dollars for a first offense and a civil penalty not to exceed five  
17 hundred dollars for a second or subsequent offense. Civil penalties may only be  
18 assessed by a ruling of the commissioner based upon an adjudicatory hearing  
19 held in accordance with the Administrative Procedure Act.

20 Section 2. This Act shall become effective upon signature by the governor or, if not  
21 signed by the governor, upon expiration of the time for bills to become law without signature  
22 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
23 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
24 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Mary Frances Aucoin.

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Proposed law provides that an applicant must provide the office of forestry with the location, date, and time of the prescribed burn prior to conducting a prescribed burn.

Proposed law authorizes the commissioner of agriculture and forestry to promulgate rules and regulations in accordance with the Administrative Procedure Act.

Proposed law does not entitle the non-certified prescribed burn manager with a rebuttable presumption of non-negligence.

Proposed law exempts the need for a permit when burning of leaf piles, yard debris, or hand-piled natural vegetation.

Proposed law provides for a civil penalty not to exceed \$250 for a first offense and a civil penalty not to exceed \$500 for a second or subsequent offense.

Proposed law provides that civil penalties may only be assessed by a ruling of the commissioner based upon an adjudicatory hearing in accordance with the Administrative Procedure Act.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 3:17.1)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill

1. Defines a "non-certified prescribed burn manager".
2. Provides requirements in order for the prescribed burn notification to be accepted.
3. Removes language that specifies types of rules and regulations the commissioner has authorization to promulgate.

##### Senate Floor Amendments to engrossed bill

1. Changes "prescribed burner" to "non-certified prescribed burn manager".
2. Provides that the commissioner's ruling on civil penalties will be based on an adjudicatory hearing.