

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0742.01 Megan McCall x4215

HOUSE BILL 22-1132

HOUSE SPONSORSHIP

Holtorf, Ortiz

SENATE SPONSORSHIP

Liston,

House Committees
Energy & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE PROVISION OF WILDFIRE MITIGATION SERVICES,
102 AND, IN CONNECTION THEREWITH, REGULATING CONTROLLED
103 BURNS ON PRIVATE PROPERTY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires that a fire department (defined to include a fire protection district as well as a county or municipality) be notified prior to conducting a controlled burn on private property and prohibits a person from conducting a controlled burn under certain conditions. The bill also sets forth civil and criminal penalties for a person who does not provide

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

notice prior to conducting a controlled burn or otherwise violates the bill's requirements.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 29-22.5-105 as
3 follows:

4 **29-22.5-105. Reporting controlled burns - prohibition -**
5 **penalties - short title - definitions.** (1) THE SHORT TITLE OF THIS
6 SECTION IS THE "DARCY'S LAST CALL ACT".

7 (2) AS USED IN THIS SECTION:

8 (a) "CONTROLLED BURN" MEANS AN INTENTIONAL FIRE STARTED
9 ON PRIVATE PROPERTY.

10 (b) "FIRE DEPARTMENT" MEANS THE DULY AUTHORIZED FIRE
11 PROTECTION ORGANIZATION OF A LOCAL GOVERNMENT, A FIRE
12 PROTECTION DISTRICT, OR A METROPOLITAN DISTRICT OR COUNTY
13 IMPROVEMENT DISTRICT THAT PROVIDES FIRE PROTECTION. "FIRE
14 DEPARTMENT" ALSO INCLUDES VOLUNTEER FIRE DEPARTMENTS
15 ORGANIZED UNDER SECTION 24-33.5-1208.5.

16 (c) "LOCAL GOVERNMENT" MEANS A STATUTORY HOME RULE
17 COUNTY, A CITY AND COUNTY, A MUNICIPALITY, OR A COUNTY.

18 (3) BEFORE ANY PERSON CONDUCTS A CONTROLLED BURN, THE
19 PERSON MUST PROVIDE NOTICE OF THE CONTROLLED BURN TO THE FIRE
20 DEPARTMENT PROVIDING SERVICES TO THE AREA WHERE THE PRIVATE
21 PROPERTY IS LOCATED. IN THE NOTICE REQUIRED BY THIS SUBSECTION (3),
22 THE PERSON CONDUCTING THE CONTROLLED BURN MUST PROVIDE THE
23 DATE, TIME, AND LOCATION WHERE THE CONTROLLED BURN WILL BE
24 CONDUCTED, AND CONTACT INFORMATION FOR THE PERSON RESPONSIBLE
25 FOR THE CONTROLLED BURN. THE PERSON SHALL PROVIDE SUCH NOTICE

1 NOT LESS THAN FORTY-EIGHT HOURS BEFORE THE CONTROLLED BURN IS TO
2 BE CONDUCTED. THE FIRE DEPARTMENT MAY DETERMINE ON OR BEFORE
3 THE DATE OF THE CONTROLLED BURN THAT FIRE DEPARTMENT PERSONNEL
4 MUST BE PRESENT AT THE LOCATION OF THE CONTROLLED BURN FOR IT TO
5 BE CONDUCTED. IF SO, AND THE FIRE DEPARTMENT IS UNABLE TO PROVIDE
6 PERSONNEL ON THE DATE OF THE CONTROLLED BURN, THE CONTROLLED
7 BURN MUST BE RESCHEDULED.

8 (4) A CONTROLLED BURN IS PROHIBITED IF, ON THE DAY THE
9 CONTROLLED BURN IS TO BE CONDUCTED, CONDITIONS OF HIGH WIND OR
10 D-4 DROUGHT, AS RECOGNIZED BY THE NATIONAL OCEANIC AND
11 ATMOSPHERIC ADMINISTRATION, EXIST ON OR AROUND THE LOCATION OF
12 THE PLANNED CONTROLLED BURN, OR IF THERE IS A RED FLAG WARNING IN
13 EFFECT IN THE COUNTY WHERE THE PRIVATE PROPERTY IS LOCATED,
14 UNLESS THE FIRE DEPARTMENT EXPRESSLY ALLOWS THE CONTROLLED
15 BURN TO BE CONDUCTED AND FIRE DEPARTMENT PERSONNEL ARE ON SITE
16 WHILE THE CONTROLLED BURN IS CONDUCTED.

17 (5) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A
18 PERSON IN VIOLATION OF THIS SECTION IS LIABLE FOR A CIVIL PENALTY AS
19 FOLLOWS:

20 (I) FOR A FIRST OFFENSE, A FINE OF TWO HUNDRED FIFTY DOLLARS;

21 (II) FOR A SECOND OFFENSE, A FINE OF FIVE HUNDRED DOLLARS;

22 AND

23 (III) FOR A THIRD AND ANY SUBSEQUENT OFFENSES, A FINE OF ONE
24 THOUSAND DOLLARS PER OCCURRENCE.

25 (b) IN ADDITION TO THE PENALTIES SET FORTH IN SUBSECTION
26 (5)(a) OF THIS SECTION, A PERSON IN VIOLATION OF THIS SECTION AND
27 WHOSE ACTS OR OMISSIONS ARE FOUND TO BE GROSSLY NEGLIGENT OR

1 WILLFUL AND WANTON IS CIVILLY LIABLE FOR ANY COSTS INCURRED BY
2 THE FIRE DEPARTMENT IN RESPONDING TO THE CONTROLLED BURN AS
3 WELL AS FOR ANY DAMAGE OR INJURY TO ANY PERSON CAUSED BY A
4 CONTROLLED BURN THAT EXTENDS BEYOND THE BOUNDARIES OF THE
5 PRIVATE PROPERTY.

6 (6) NOTHING IN THIS SECTION EXEMPTS A PERSON FROM
7 COMPLYING WITH ANY OTHER APPLICABLE LOCAL, STATE, OR FEDERAL
8 REQUIREMENT PERTAINING TO OPEN BURNING.

9 **SECTION 2. Act subject to petition - effective date.** This act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly; except
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V
13 of the state constitution against this act or an item, section, or part of this
14 act within such period, then the act, item, section, or part will not take
15 effect unless approved by the people at the general election to be held in
16 November 2022 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.