

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 24-0858.01 Rebecca Bayetti x4348

HOUSE BILL 24-1141

HOUSE SPONSORSHIP

Winter T.,

SENATE SPONSORSHIP

Pelton R.,

House Committees
Energy & Environment

Senate Committees

A BILL FOR AN ACT

101 CONCERNING LOCAL GOVERNMENT AUTHORITY OVER THE
102 REGULATION OF BURNING IN BURN BARRELS.

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 clarifies that local governments, rather than the air quality control commission or the department of public health and environment, control the regulation of burning in burn barrels. Burning in burn barrels is permitted as regulated by or unless prohibited by the local government.

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

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

2 **SECTION 1.** In Colorado Revised Statutes, 25-7-109, **add** (8)(c)
3 as follows:

4 **25-7-109. Commission to promulgate emission control**
5 **regulations - definition.** (8) (c) NOTWITHSTANDING SUBSECTION (2)(c)
6 OF THIS SECTION OR ANY OTHER PROVISION OF THIS SECTION, BURNING IN
7 BURN BARRELS IS NOT OPEN BURNING, AND THE COMMISSION SHALL NOT
8 REGULATE BURNING IN BURN BARRELS, WHICH IS PERMITTED, UNLESS
9 PROHIBITED BY A LOCAL GOVERNMENT, AS REGULATED BY A LOCAL
10 GOVERNMENT PURSUANT TO SECTIONS 25-7-128, 30-15-401, AND
11 30-20-110. AS USED IN THIS SECTION, "LOCAL GOVERNMENT" MEANS A
12 HOME RULE OR STATUTORY COUNTY, CITY AND COUNTY, OR
13 MUNICIPALITY.

14 **SECTION 2.** In Colorado Revised Statutes, 25-7-123, **add**
15 (1)(b.5) as follows:

16 **25-7-123. Open burning - penalties - definition.**
17 (1) (b.5) BURNING IN BURN BARRELS IS NOT OPEN BURNING, IS PERMITTED
18 UNLESS PROHIBITED BY A LOCAL GOVERNMENT, AND MAY BE REGULATED
19 ONLY BY A LOCAL GOVERNMENT PURSUANT TO SECTIONS 25-7-128,
20 30-15-401, AND 30-20-110. BURNING IN BURN BARRELS DOES NOT
21 CONSTITUTE OPERATION OF AN INCINERATOR. AS USED IN THIS SECTION,
22 "LOCAL GOVERNMENT" MEANS A HOME RULE OR STATUTORY COUNTY,
23 CITY AND COUNTY, OR MUNICIPALITY.

24 **SECTION 3.** In Colorado Revised Statutes, 25-7-128, **amend** (1)
25 as follows:

26 **25-7-128. Local government - authority - penalty.**
27 (1) (a) Home rule cities, cities, towns, counties, and cities and counties

1 are hereby authorized to enact local air pollution resolutions or
2 ordinances. Every such resolution or ordinance ~~shall~~ MUST provide for
3 hearings, judicial review, and injunctions consistent with sections
4 25-7-118 to 25-7-121 and ~~shall~~ include emission control regulations
5 which are at least the same as, or may be more restrictive than, the
6 emission control regulations adopted pursuant to this article; except that:

7 (I) Nothing in this ~~article shall prohibit~~ ARTICLE 7 PROHIBITS any
8 such local law from controlling any air pollution or air pollution source
9 which is not subject to control under the provisions of this article; ~~and~~
10 ~~except that~~

11 (II) No permit issued under any local air pollution law with
12 respect to any facility, activity, or process ~~shall ever be construed to~~
13 ~~relieve~~ RELIEVES any holder thereof from the duty to maintain such
14 facility, activity, or process in compliance with the emission standards
15 and emission control regulations adopted pursuant to this article ~~nor to~~
16 ~~relieve~~ OR RELIEVES the division from its duty to enforce such emission
17 standards and emission control regulations with respect to such facility,
18 activity, or process; AND

19 (III) LOCAL GOVERNMENT REGULATIONS, RATHER THAN THOSE
20 ADOPTED PURSUANT TO THIS ARTICLE 7 BY THE COMMISSION OR THE
21 DIVISION, CONTROL BURNING IN BURN BARRELS. UNLESS PROHIBITED BY
22 A LOCAL GOVERNMENT, BURNING IN BURN BARRELS IS PERMITTED AS
23 REGULATED BY A LOCAL GOVERNMENT PURSUANT TO THIS SECTION AND
24 SECTIONS 30-15-401 AND 30-20-110.

25 (b) Any local air pollution standards or regulations submitted and
26 approved as revisions to the state implementation plan shall be enforced
27 as such by the division. In order to assure coordination of efforts to

1 control and abate air pollution, local governmental entities are encouraged
2 to submit their adopted plans and regulations as revisions to the state
3 implementation plan for Colorado.

4 **SECTION 4.** In Colorado Revised Statutes, 30-15-401, **add**
5 (1)(n.5)(II.5) as follows:

6 **30-15-401. General regulations - definitions.** (1) In addition to
7 those powers granted by sections 30-11-101 and 30-11-107 and by parts
8 1, 2, and 3 of this article 15, the board of county commissioners may
9 adopt ordinances for control or licensing of those matters of purely local
10 concern that are described in the following enumerated powers:

11 (n.5) (II.5) TO ALLOW FOR AND REGULATE BURNING IN BURN
12 BARRELS.

13 **SECTION 5.** In Colorado Revised Statutes, 30-20-110, **amend**
14 (3) as follows:

15 **30-20-110. Minimum standards.** (3) As used in subsection (2)
16 of this section, "noncommercial burning of trash" includes the burning of
17 wood waste in wigwam wood waste burners AND BURNING IN BURN
18 BARRELS.

19 **SECTION 6. Safety clause.** The general assembly finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, or safety or for appropriations for
22 the support and maintenance of the departments of the state and state
23 institutions.