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BILL ANALYSIS

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Senate Bill 925 (Substitute S-2 as reported by the Committee of the Whole)  
Sponsor: Senator Michelle A. McManus  
Committee: Natural Resources and Environmental Affairs

### **CONTENT**

The bill would amend Part 515 (Prevention and Suppression of Forest Fires) of the Natural Resources and Environmental Protection Act to do the following:

- Provide that a property owner would not be liable for damage or injury caused by the fire or smoke from a prescribed burn, if certain conditions were met.
- Specify that prescribed burning would not constitute a public or private nuisance when conducted in compliance with Part 515, Part 55 (Air Pollution Control), and rules promulgated to implement either part.
- Require the Department of Natural Resources (DNR) to adopt rules governing prescribed burning and rules for certifying and decertifying prescribed burn managers.
- Preempt local ordinances that conflicted with the proposed exemption from liability, or otherwise applied to prescribed burns conducted in compliance with the bill.

The exemption from liability, and the statement that prescribed burning would not constitute a nuisance, would apply only if the following conditions were met: 1) the landowner specifically consented to the prescribed burn; 2) the requirements of Section 51503 were met; 3) there were adequate firebreaks at the burn site and sufficient personnel and fire-fighting equipment to control the fire; 4) a certified prescribed burn manager was present from ignition to completion; 5) the damage or injury did not result from the fire escaping the boundary of the area authorized in the burn permit; and 6) the property owner or his or her agent was not grossly negligent. The exemption from liability would not affect liability for injury to or the death of a person engaged in the prescribed burning.

(Under Section 51503, a person may not burn any flammable material on or adjacent to forest land, except for domestic purposes, without a permit from the DNR, at any time the ground is not snow-covered.)

MCL 324.51501 et al.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government. The certification program for prescribed burn managers would cost the Department of Natural Resources an indeterminate amount in administrative costs. There could be savings for the State since it would not be liable for damage or injury caused by a prescribed burn conducted by the DNR if all conditions of the bill were met. There also could be fewer expenses from addressing wild fires if additional prescribed burns were conducted to clear forests of fire-contributing debris.

Date Completed: 11-4-04

Fiscal Analyst: Jessica Runnels

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Analysis available @ <http://www.michiganlegislature.org>

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