

H.855

An act relating to forest fire suppression and forest fire wardens

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 10 V.S.A. chapter 83, subchapter 4 is amended to read:

Subchapter 4. Forest Fires and Fire Prevention

§ 2641. TOWN FOREST FIRE WARDENS; APPOINTMENT AND
REMOVAL

(a) Upon approval by the ~~select board~~ selectboard and acceptance by the appointee, the ~~commissioner~~ Commissioner shall appoint a town forest fire warden for a term of five years or until a successor is appointed. A town forest fire warden may be reappointed for successive five-year terms by the Commissioner or until a successor is approved by the selectboard and appointed by the Commissioner. The warden may be removed for cause at any time by the ~~commissioner~~ Commissioner with the approval of the ~~select board~~ selectboard. A warden shall comply with training requirements established by the ~~commissioner by rule~~ Commissioner.

(b) The ~~commissioner~~ Commissioner may appoint a forest fire warden for an unorganized town or gore, who shall ~~hold office until he or she resigns or is removed for cause~~ serve for a term of five years or until a successor is appointed. An appointed forest fire warden for an unorganized town or gore may be reappointed for successive five-year terms by the Commissioner until

the Commissioner appoints and the unorganized town or gore approves a successor. The warden may be removed for cause at any time by the Commissioner with the approval of the unorganized town or gore. The forest fire warden of an unorganized town or gore shall have the same powers and duties as town forest fire wardens and shall be subject to the requirements of this subchapter.

(c) When there are woodlands within the limits of a city ~~or incorporated village~~, the chief of the fire department of such city ~~or village~~ shall act as the city or village forest fire warden with all the powers and duties of town forest fire wardens.

(d) When the ~~commissioner~~ Commissioner deems it difficult in any municipality for one warden to take charge of protecting the entire municipality from forest fires, he or she may appoint one or more deputy forest fire wardens. Such wardens under the direction of the fire warden shall have the same powers, duties, and pay and make the same reports through the fire warden to the ~~commissioner~~ Commissioner as forest fire wardens.

(e) The ~~commissioner~~ Commissioner may appoint special forest fire wardens who shall hold office during the pleasure of the ~~commissioner~~ Commissioner. Such fire wardens shall have the same powers and duties throughout the ~~state~~ State as town forest fire wardens, except that all expenses

and charges incurred on account of their official acts shall be paid from the appropriations for the ~~department~~ Department.

§ 2642. SALARY AND COMPENSATION OF TOWN FOREST FIRE
WARDENS

(a) The salary of a town forest fire warden shall be determined by the selectboard members for time spent in the performance of the duties of his or her office, which shall be paid by the town. ~~He or she shall also receive from the town the sum of \$0.15 for each fire permit issued.~~ In addition thereto, he or she shall receive from the ~~commissioner~~ Commissioner \$30.00 annually for ~~properly making out and submitting reports of fires in his or her district~~ fulfilling the requirements of section 2645 of this title and keeping the required ~~state~~ State records. He or she shall also receive from the ~~commissioner~~ Commissioner \$30.00 per diem for attendance at each training ~~meeting called~~ required by the ~~commissioner~~ Commissioner. He or she shall also receive annually an amount of \$10.00 for each fire report that is submitted by the forest fire warden under section 2644 of this title.

(b) ~~The pay of a warden of an unorganized town or gore and his or her assistants, including patrolmen, and all expenses incurred by him or her in extinguishing forest fires, as provided for by the Commissioner, including employment of a person to assist him or her, on the approval of the Commissioner, shall be paid by the State from the monies annually available~~

~~from taxes in the unorganized town and gore, and the Commissioner of Finance and Management shall issue his or her warrant therefor. [Repealed.]~~

~~(c) A person employed by a warden to assist him or her in extinguishing a forest fire as authorized under section 2644 of this title, shall be paid at the same rate per hour as is paid for labor upon highways. A minimum of two hours' pay for the first hour or any portion thereof shall be allowed persons who are officially summoned to assist in the extinguishment of forest fires. When a warden employs men or women in extinguishing a fire in a municipality adjoining his or her own, the expense incurred shall be paid by the municipality in which the work was done at the rate of pay prevailing in the municipality where the laborers reside. A municipality wherein such warden resides shall forthwith pay the warden and assistants for their services, and the municipality may recover the expense thereof in a civil action on this statute from the municipality where the work was done. [Repealed.]~~

§ 2643. TOWN'S LIABILITY FOR EXTINGUISHING SUPPRESSION OF FOREST FIRES; STATE AID

~~(a) For the purpose of extinguishing forest fires, a town shall not be held liable in any one year for an amount greater than ten percent of its grand list. A municipality in which a forest fire occurs shall pay the cost to suppress a forest fire that occurs on land that is not owned by the Agency of Natural Resources, including the costs of personnel and equipment. The~~

Commissioner may, according to the Department fire suppression reimbursement policy, reimburse a municipality for all or a portion of the costs of suppressing a forest fire on land that is not owned by the Agency of Natural Resources.

~~(b) The state shall reimburse a town for its forest fire suppression costs in excess of ten percent of its grand list and for one half its forest fire suppression costs up to and including ten percent of its grand list when the bills are presented to the commissioner by December 31 of each year with proper vouchers and in a form approved by him~~ For the purpose of suppressing forest fires on lands owned by the Agency of Natural Resources, the State shall reimburse a town for all its forest fire suppression costs at a rate determined by the Commissioner according to the Department fire suppression reimbursement policy. If the total acreage of a forest fire is determined to be partially on land owned by the Agency of Natural Resources and partially on land owned by another party, the Commissioner shall, at a minimum, reimburse the town at a rate determined by the Commissioner according to the Department fire suppression reimbursement policy for costs incurred by the municipality on land owned by the Agency of Natural Resources.

(c) For any forest fire on lands owned by the Agency of Natural Resources to be considered eligible for reimbursement from the State, a town forest fire warden shall have reported the forest fire to the Commissioner within 14 days

of extinguishment of the fire as required under section 2644 of this title. For reimbursement of fire suppression costs for forest fires on land owned by the Agency of Natural Resources, the town forest fire warden and the Commissioner or designee, shall approve the costs before submission to the municipality for payment. The town forest fire warden may submit to the State on an annual basis a request for reimbursement of fire suppression costs on lands owned by the Agency of Natural Resources. The State shall reimburse a town for all applicable forest fire suppression costs when the reimbursement request is presented to the Commissioner by December 31 of each year in a form approved by the Commissioner.

§ 2644. DUTIES AND POWERS OF FIRE WARDEN

(a) When a forest fire or fire threatening a forest is discovered in his or her town, the town forest fire warden shall enter upon any premises and take measures for its prompt control, suppression, and extinguishment. The town forest fire warden may call upon any person for assistance. ~~He or she may arrest without warrant any person found in the act of violating a provision of law or proclamation pertaining to forest fires.~~ In a municipality with a municipal fire department or served by a private volunteer fire department, as that term is defined under 20 V.S.A. § 2992, the chief of the municipal fire department or the private volunteer fire department shall have authority to direct, control, and supervise firefighting operations to suppress a forest fire.

In a town that lacks a municipal fire department and is not served by a private volunteer fire department, the town forest fire warden is authorized to direct, control, and supervise firefighting operations to suppress a forest fire. The town forest fire warden may choose to share or delegate command authority to a chief engineer of a responding fire department or, in the chief's absence, the highest ranking assistant firefighter present during the fire.

(b) A town forest fire warden shall keep a record of his or her acts, ~~the amount of expenses incurred,~~ the number of fires and causes, the areas burned over, and the character and amount of damages done in the warden's jurisdiction. Within two weeks after the ~~discovery of such~~ extinguishment of a fire, he or she the town forest fire warden shall report the ~~same~~ fire to the ~~commissioner on forms which shall be furnished by him or her~~ Commissioner, but the making of ~~such~~ a report under this subsection shall not be a charge against the town.

(c) ~~During the danger season and subject to the approval or direction of the commissioner, a warden shall establish a patrol in dangerous localities, and the expense for the same shall be paid as expenses for fighting fires. Wardens shall receive the same pay for time spent in posting notices, patrolling or in making investigations of damages done that they receive for time spent in actual fire fighting. [Repealed.]~~

§ 2645. OPEN BURNING; PERMITS

(a) Except as otherwise provided in this section, a person shall not kindle or authorize another person to kindle a fire in the open air for the purpose of burning natural wood, brush, weeds, or grass ~~or rubbish of any kind except where there is snow on the site, without first obtaining permission from the fire warden or deputy warden of the town, stating when and where such fire may be kindled~~ without first obtaining permission from the town forest fire warden or deputy forest fire warden, stating when and where such fire may be kindled. Wood, brush, weeds, or grass may not be burned if they have been altered in any way by surface applications or injection of paints, stains, preservatives, oils, glues, or pesticides. Whenever such permission is granted, ~~such the fire~~ warden, within 12 hours, shall issue a written permit "Permit to Kindle" for record purposes stating when and where such fire may be kindled. ~~Permission shall not be required for the kindling of a fire in a location which is 200 feet or more from any woodland, timberland or field containing dry grass or other inflammable plant material contiguous to woodland. With the written approval of the secretary, during periods of extreme fire hazard, the commissioner may notify town fire wardens that for a specified period no burning permits shall be issued. The wardens shall issue no permits during the specified period.~~

(b) ~~Whenever the commissioner deems that the public safety of any town or portion of a town of this state does not require the protection provided by~~

~~this section, he or she may cause the town fire warden of any such town to post notices to that effect in not less than five conspicuous places in such town.~~

[Repealed.]

(c) The provisions of this section will not apply to:

(1) ~~To areas posted in accordance with subsection (b) of this section~~ the kindling of a fire in a location where there is snow surrounding the open burning site;

(2) ~~To fires built in stone arches, outdoor fireplaces, or existing fire rings at state State recreational areas or fires built in stone arches, outdoor fireplaces, or fire rings on private property that are not located within woodland, timberland, or a field containing dry grass or other flammable plant material contiguous to woodland;~~

(3) ~~To fires built in special containers used for burning brush, waste, grass or rubbish when conditions are deemed satisfactory to the town fire warden~~ the kindling of a fire in a location that is 200 feet or more from any woodland, timberland, or field containing dry grass or other flammable plant material contiguous to woodland; or

(4) ~~To areas within cities or villages~~ cities maintaining a fire department.

(d)(1) As used in this section, “natural wood” means:

(A) trees, including logs, boles, trunks, branches, limbs, and stumps;

(B) lumber, including timber, logs, or wood slabs, especially when dressed for use; and

(C) pallets that are used for the shipment of various materials, so long as such pallets are not chemically treated with any preservative, paint, or oil.

(2) "Natural wood" shall not mean other wood products such as sawdust, plywood, particle board, or press board.

(e) Nothing in this section shall be construed to limit the authority of the air pollution control officer to prohibit open burning in accordance with the rules adopted under chapter 23 of this title.

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§ 2648. SLASH REMOVAL

(a) A person may cut or cause to be cut forest growth only if all slash adjoining the right-of-way of any public highway, or the boundary lines of woodlots owned by adjoining property owners, is treated as follows:

(1) All slash shall be removed for a distance of 50 feet from the right-of-way of any public highway or from the boundary lines of woodlots owned by adjoining property owners.

(2) All slash shall be removed for a distance of 100 feet from standing buildings on adjoining property.

~~(b) Owners or operators of timber or woodlots shall leave the main logging roads through cut-over areas free from slash so that tractors may pass over~~

~~these roads unobstructed in order to carry men and supplies and fire fighting equipment to fire suppression crews. [Repealed.]~~

(c) If in the opinion of the town forest fire warden there is no fire hazard as a result of a cutting, the warden may issue, upon request, a statement relieving the operator of the conditions required in this section.

Sec. 2. DEPARTMENT OF FORESTS, PARKS AND RECREATION;
POLICY FOR REIMBURSEMENT OF FIRE SUPPRESSION
COSTS

On or before January 1, 2017, the Commissioner of Forests, Parks and Recreation, in consultation with the Vermont League of Cities and Towns and other interested parties, shall develop a policy that provides the criteria the Department of Forests, Parks and Recreation shall use in determining whether and how to reimburse towns for the costs of fire suppression. The policy shall include criteria for:

(1) whether and how to reimburse a municipality for the costs of forest fire suppression incurred on lands not owned by the Agency of Natural Resources; and

(2) determining the rate a municipality shall be reimbursed for fire suppression costs incurred on lands owned by the Agency of Natural Resources.

Sec. 3. 10 V.S.A. § 2515 is added to read:

§ 2515. INTERCOMPACT LIABILITY—ARTICLE XV

The provisions of Article IX of this compact that relate to mutual aid in combatting, controlling, or preventing forest fires shall be operative as between any state party to this compact and any other state that is party to a regional forest fire protection compact in another region provided that the legislature of such other state shall have given its assent to the mutual aid provisions of this compact.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016.