**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3924**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Harrison, Miller, Harrell, Clemmons and Weeks

Document Path: l:\council\bills\ms\7303zw09.docx

Companion/Similar bill(s): 1118

Introduced in the House on April 22, 2009

Introduced in the Senate on April 22, 2010

Last Amended on April 21, 2010

Currently residing in the Senate

Summary: Prescribed fire

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/22/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\04-22-09.docx)‑15

4/22/2009 House Referred to Committee on **Judiciary** [HJ](file:///h:\HJ%20Archive\2009\04-22-09.docx)‑16

5/14/2009 House Member(s) request name added as sponsor: Miller

1/28/2010 House Member(s) request name added as sponsor: Harrell

3/23/2010 House Member(s) request name added as sponsor: Clemmons

3/24/2010 House Committee report: Favorable with amendment **Judiciary** [HJ](file:///h:\HJ%20Archive\2010\03-24-10.docx)‑31

4/15/2010 House Member(s) request name added as sponsor: Weeks

4/20/2010 House Debate adjourned [HJ](file:///h:\HJ%20Archive\2010\04-20-10.docx)‑21

4/20/2010 House Debate adjourned until Wednesday, April 21, 2010 [HJ](file:///h:\HJ%20Archive\2010\04-20-10.docx)‑49

4/21/2010 House Amended [HJ](file:///h:\HJ%20Archive\2010\04-21-10.docx)‑16

4/21/2010 House Read second time [HJ](file:///h:\HJ%20Archive\2010\04-21-10.docx)‑16

4/22/2010 House Read third time and sent to Senate [HJ](file:///h:\HJ%20Archive\2010\04-22-10.docx)‑14

4/22/2010 Senate Introduced and read first time [SJ](file:///h:\SJ%20Archive\2010\04-22-10.docx)‑9

4/22/2010 Senate Referred to Committee on **Fish, Game and Forestry** [SJ](file:///h:\SJ%20Archive\2010\04-22-10.docx)‑9

5/5/2010 Senate Committee report: Favorable with amendment **Fish, Game and Forestry** [SJ](file:///h:\SJ%20Archive\2010\05-05-10.docx)‑14

**VERSIONS OF THIS BILL**

[4/22/2009](file:///p:\pprever\2009-10\3924_20090422.docx)

[3/24/2010](file:///p:\pprever\2009-10\3924_20100324.docx)

[4/21/2010](file:///p:\pprever\2009-10\3924_20100421.docx)

[5/5/2010](file:///p:\pprever\2009-10\3924_20100505.docx)

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Indicates New Matter

COMMITTEE REPORT

May 5, 2010

**H. 3924**

Introduced by Reps. Harrison, Miller, Harrell, Clemmons and Weeks

S. Printed 5/5/10--S.

Read the first time April 22, 2010.

**THE COMMITTEE ON FISH, GAME AND FORESTRY**

To whom was referred a Bill (H. 3924) to amend Section 48‑34‑40, Code of Laws of South Carolina, 1976, relating to the requirements for conducting a prescribed fire, so as to reference other, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting SECTION 2 of the bill and inserting:

/SECTION 2. Section 48-34-50 of the 1976 Code is amended to read:

“Section 48-34-50. ~~No~~ A property owner or lessee or his agent or employee conducting a prescribed fire pursuant to this chapter is not liable for damage, injury, or loss caused by fire, ~~resulting smoke,~~ or other consequences of the prescribed fire unless negligence is proven. A property owner or lessee or his agent or employee conducting a prescribed fire pursuant to this chapter is not liable for damage, injury, or loss caused by the resulting smoke of a prescribed fire unless gross negligence is proven./

Renumber sections to conform.

Amend title to conform.

RONNIE W. CROMER for Committee.

**A** **BILL**

TO AMEND SECTION 48‑34‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENTS FOR CONDUCTING A PRESCRIBED FIRE, SO AS TO REFERENCE OTHER SPECIFIC STATUTORY AND REGULATORY REQUIREMENTS; AND TO AMEND SECTION 48‑34‑50, RELATING TO LIABILITY FOR DAMAGES CAUSED BY A PRESCRIBED FIRE, SO AS TO PROVIDE THAT NO PROPERTY OWNER, LESSEE, AGENT, OR EMPLOYEE MAY BE HELD LIABLE FOR DAMAGES CAUSED BY THE RESULTING SMOKE OF A PRESCRIBED FIRE UNLESS GROSS NEGLIGENCE IS PROVEN AND TO DEFINE GROSS NEGLIGENCE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 48‑34‑40 of the 1976 Code is amended to read:

“Section 48‑34‑40. Prescribed fires conducted pursuant to this chapter:

(1) must have a prescribed fire plan prepared before authorization to burn is given by the State Commission of Forestry, and the plan must be on site and followed during the burn;

(2) must have at least one certified prescribed fire manager present and supervising the burn from ignition until it is declared safe according to certification guidelines and in consideration of both fire behavior and smoke management issues;

(3) are considered in the public interest and do not constitute a public or private nuisance when conducted pursuant to state air pollution statutes, smoke management guidelines (S.C. Code of Regulations 61‑62.2), and regulations applicable to the use of prescribed fire (Chapter 35, Title 48 and Chapter 2, Title 50); and

(4) are considered a property right of the property owner.”

SECTION 2. Section 48‑34‑50 of the 1976 Code is amended to read:

“Section 48‑34‑50. ~~No~~ A property owner or lessee or his agent or employee conducting a prescribed fire pursuant to this chapter is not liable for damage, injury, or loss caused by fire, resulting smoke, or other consequences of the prescribed fire unless negligence is ~~proven~~ found by the finder of fact. There is a rebuttable presumption that any landowner, lessee, employee, or agent that has conducted a prescribed fire in compliance with Section 48-34-10 has not acted negligently.”

SECTION 3. This act takes effect upon approval by the Governor.

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