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AN ACT

RELATING TO PRESCRIBED BURNING; PROHIBITING THE USE OF
PRESCRIBED BURNING DURING A RED FLAG WARNING; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 68-5-3 NMSA 1978 (being Laws 2021,
Chapter 13, Section 3) is amended to read:

"68-5-3. PRESCRIBED BURN USE.--

A. Prescribed burning is considered in the public
interest and not a public or private nuisance.

B. Except as limited in Subsection C of this
section, a private landowner or a private landowner's agent,
contractor or legally authorized designee shall have a right
to conduct a prescribed burn on the landowner's property,
except when the state forester or a county or municipality
issues restrictions prohibiting a prescribed burn because of
drought or wind conditions; provided that the prescribed burn
is conducted with appropriate precautionary measures,
including: the use of sufficient personnel and equipment;
the prior notification of local fire officials; burn and
contingency planning; and the use of appropriate prescribed
burn techniques that cause the fire to be confined to a
predetermined area.

C. A prescribed burn shall not be started when the

1 national weather service has issued a red flag warning for
2 the area where the prescribed burn is planned to take place."

3 SECTION 2. EMERGENCY.--It is necessary for the public
4 peace, health and safety that this act take effect
5 immediately. _____

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