

ASSEMBLY BILL

No. 799

Introduced by Assembly Member Gilmore

February 26, 2009

An act to amend Section 51182 of the Government Code, and to amend Section 4291 of the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

AB 799, as introduced, Gilmore. Public resources: fire protection: fuels management: forest protection.

Existing law requires that a person who owns, leases, controls, operates, or maintains an occupied dwelling or structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or a land covered with flammable material, and the land is located within a very high fire hazard severity zone designated by the local agency, to take certain fire prevention actions, as specified.

Existing law requires that a person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered land, brush-covered land, grass-covered land, or a land covered with flammable material to take certain fire prevention actions, as specified.

This bill would make technical, nonsubstantive changes to these laws.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 51182 of the Government Code is amended to read:

51182. (a) A person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure in, upon, or adjoining—~~any~~ a mountainous area, forest-covered land, brush-covered land, grass-covered land, or—~~any~~ a land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by the local agency pursuant to Section 51179, shall at all times do all of the following:

(1) Maintain defensible space no greater than 100 feet from each side of the structure, but not beyond the property line unless allowed by state law, local ordinance, or regulation and as provided in paragraph (2). The amount of fuel modification necessary shall take into account the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of fuels management may vary within the 100-foot perimeter of the structure, the most intense being within the first 30 feet around the structure. Consistent with fuels management objectives, steps should be taken to minimize erosion.

(2) A greater distance than that required under paragraph (1) may be required by state law, local ordinance, rule, or regulation. Clearance beyond the property line may only be required if the state law, local ordinance, rule, or regulation includes findings that ~~such~~ a clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. Clearance on adjacent property shall only be conducted following written consent by the adjacent landowner.

(3) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that

1 required under paragraph (1) if a fire expert, designated by the fire
2 chief or fire official from the authority having jurisdiction, provides
3 findings that ~~such~~ a clearing is necessary to significantly reduce
4 the risk of transmission of flame or heat sufficient to ignite the
5 structure, and there is no other feasible mitigation measure possible
6 to reduce the risk of ignition or spread of wildfire to the structure.
7 The greater distance may not be beyond the property line unless
8 allowed by state law, local ordinance, rule, or regulation.

9 (4) Remove that portion of ~~any~~ a tree that extends within 10
10 feet of the outlet of ~~any~~ a chimney or stovepipe.

11 (5) Maintain ~~any~~ a tree, shrub, or other plant adjacent to or
12 overhanging ~~any~~ a building free of dead or dying wood.

13 (6) Maintain the roof of ~~any~~ a structure free of leaves, needles,
14 or other vegetative materials.

15 (7) Prior to constructing a new dwelling or structure that will
16 be occupied or rebuilding an occupied dwelling or occupied
17 structure damaged by a fire in that zone, the construction or
18 rebuilding of which requires a building permit, the owner shall
19 obtain a certification from the local building official that the
20 dwelling or structure, as proposed to be built, complies with all
21 applicable state and local building standards, including those
22 described in subdivision (b) of Section 51189, and shall provide
23 a copy of the certification, upon request, to the insurer providing
24 course of construction insurance coverage for the building or
25 structure. Upon completion of the construction or rebuilding, the
26 owner shall obtain from the local building official, a copy of the
27 final inspection report that demonstrates that the dwelling or
28 structure was constructed in compliance with all applicable state
29 and local building standards, including those described in
30 subdivision (b) of Section 51189, and shall provide a copy of the
31 report, upon request, to the property insurance carrier that insures
32 the dwelling or structure.

33 (b) A person is not required under this section to manage fuels
34 on land if that person does not have the legal right to manage fuels,
35 nor is a person required to enter upon or to alter property that is
36 owned by any other person without the consent of the owner of
37 the property.

38 (c) The Department of Forestry and Fire Protection shall
39 develop, periodically update, and post on its Internet Web site a
40 guidance document on fuels management pursuant to this chapter.

Guidance shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat; and suggestions to minimize or eliminate the risk of flammability of nonvegetative sources of combustion such as woodpiles, propane tanks, wood decks, and outdoor lawn furniture.

SEC. 2. Section 4291 of the Public Resources Code is amended to read:

4291. (a) A person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material, shall at all times do all of the following:

(1) Maintain defensible space no greater than 100 feet from each side of the structure, but not beyond the property line unless allowed by state law, local ordinance, or regulation and as provided in paragraph (2). The amount of fuel modification necessary shall take into account the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of fuels management may vary within the 100-foot perimeter of the structure, the most intense being within the first 30 feet around the structure. Consistent with fuels management objectives, steps should be taken to minimize erosion.

(2) A greater distance than that required under paragraph (1) may be required by state law, local ordinance, rule, or regulation. Clearance beyond the property line may only be required if the state law, local ordinance, rule, or regulation includes findings that ~~such~~ a clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. Clearance

1 on adjacent property shall only be conducted following written
2 consent by the adjacent landowner.

3 (3) An insurance company that insures an occupied dwelling
4 or occupied structure may require a greater distance than that
5 required under paragraph (1) if a fire expert, designated by the
6 director, provides findings that ~~such a~~ *the* clearing is necessary to
7 significantly reduce the risk of transmission of flame or heat
8 sufficient to ignite the structure, and there is no other feasible
9 mitigation measure possible to reduce the risk of ignition or spread
10 of wildfire to the structure. The greater distance may not be beyond
11 the property line unless allowed by state law, local ordinance, rule,
12 or regulation.

13 (4) Remove that portion of ~~any a~~ tree that extends within 10
14 feet of the outlet of a chimney or stovepipe.

15 (5) Maintain ~~any a~~ tree, shrub, or other plant adjacent to or
16 overhanging a building free of dead or dying wood.

17 (6) Maintain the roof of a structure free of leaves, needles, or
18 other vegetative materials.

19 (7) (a) Prior to constructing a new building or structure or
20 rebuilding a building or structure damaged by a fire in an area
21 subject to this section, the construction or rebuilding of which
22 requires a building permit, the owner shall obtain a certification
23 from the local building official that the dwelling or structure, as
24 proposed to be built, complies with all applicable state and local
25 building standards, including those described in subdivision (b)
26 of Section 51189 of the Government Code, and shall provide a
27 copy of the certification, upon request, to the insurer providing
28 course of construction insurance coverage for the building or
29 structure. Upon completion of the construction or rebuilding, the
30 owner shall obtain from the local building official, a copy of the
31 final inspection report that demonstrates that the dwelling or
32 structure was constructed in compliance with all applicable state
33 and local building standards, including those described in
34 subdivision (b) of Section 51189 of the Government Code, and
35 shall provide a copy of the report, upon request, to the property
36 insurance carrier that insures the dwelling or structure.

37 (b) A person is not required under this section to manage fuels
38 on land if that person does not have the legal right to manage fuels,
39 nor is a person required to enter upon or to alter property that is

1 owned by any other person without the consent of the owner of
2 the property.

3 (c) (1) Except as provided in Section 18930 of the Health and
4 Safety Code, the director may adopt regulations exempting a
5 structure with an exterior constructed entirely of nonflammable
6 materials, or, conditioned upon the contents and composition of
7 the structure, the director may vary the requirements respecting
8 the removing or clearing away of flammable vegetation or other
9 combustible growth with respect to the area surrounding those
10 structures.

11 (2) An exemption or variance under paragraph (1) shall not
12 apply unless and until the occupant of the structure, or if there is
13 not an occupant, the owner of the structure, files with the
14 department, in a form as the director shall prescribe, a written
15 consent to the inspection of the interior and contents of the structure
16 to ascertain whether this section and the regulations adopted under
17 this section are complied with at all times.

18 (d) The director may authorize the removal of vegetation that
19 is not consistent with the standards of this section. The director
20 may prescribe a procedure for the removal of that vegetation and
21 make the expense a lien upon the building, structure, or grounds,
22 in the same manner that is applicable to a legislative body under
23 Section 51186 of the Government Code.

24 (e) The Department of Forestry and Fire Protection shall
25 develop, periodically update, and post on its Internet Web site a
26 guidance document on fuels management pursuant to this chapter.
27 Guidance shall include, but not be limited to, regionally appropriate
28 vegetation management suggestions that preserve and restore native
29 species, minimize erosion, minimize water consumption, and
30 permit trees near homes for shade, aesthetics, and habitat; and
31 suggestions to minimize or eliminate the risk of flammability of
32 nonvegetative sources of combustion such as woodpiles, propane
33 tanks, wood decks, and outdoor lawn furniture.

34 (f) As used in this section, "person" means a private individual,
35 organization, partnership, limited liability company, or corporation.