

# Attachment 1: Assembly Bill 3074

AMENDED IN ASSEMBLY MAY 4, 2020

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL**

**No. 3074**

---

**Introduced by Assembly Member Friedman**

February 21, 2020

---

An act to amend Sections 51182 and 51186 of the Government Code, and to amend Section 4291 of the Public Resources Code, relating to fire prevention.

LEGISLATIVE COUNSEL'S DIGEST

AB 3074, as amended, Friedman. Fire prevention: wildfire risk: defensible space: ember-resistant zones.

Existing law requires the Director of Forestry and Fire Protection to identify areas in the state as very high fire hazard severity zones based on specified criteria and the severity of the fire hazard. Existing law requires 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 land that is covered with flammable material that is within a very high fire hazard severity zone, as designated by a local agency, or a building or structure in, upon, or adjoining those areas or lands within a state responsibility area, to maintain a defensible space of 100 feet from each side and from the front and rear of the structure, as specified. A violation of these requirements is a crime.

This bill would require a person described above to use more intense fuel reductions between 5 and 30 feet around the structure, and to create an ember-resistant zone within 5 feet of the structure, as provided. Because a violation of these provisions would be a crime or expand the

scope of an existing crime, the bill would impose a state-mandated local program.

The bill would require each local agency having jurisdiction of property upon which conditions that are regulated by the defensible space provisions described above apply and the Department of Forestry and Fire Protection to make reasonable efforts to provide notice to affected residents of the above requirements before imposing penalties for a violation of those requirements. By expanding the duty of a local agency, the bill would impose a state-mandated local program.

Existing law requires the Department of Forestry and Fire Protection to develop, periodically update, and post on its internet website a guidance document on fuels management, as provided.

This bill would ~~require~~, *instead require the State Board of Forestry and Fire Protection, in consultation with the department, to develop, periodically update, and post on its internet website the guidance document. The bill would require, on or before January 1, 2023, the department state board, in consultation with the department, to update the guidance document to include suggestions for creating an ember-resistant zone within 5 feet of a structure, as provided.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Catastrophic wildfires pose an urgent threat to lives,
- 4 properties, and resources in California. The state experienced the
- 5 deadliest and most destructive wildfires in its history in 2017 and
- 6 2018. Fueled by five years of drought, unprecedented buildup of
- 7 dry vegetation, and extreme winds, the size and intensity of recent

1 wildfires caused the loss of more than 100 lives, the destruction  
2 of tens of thousands of homes and businesses, and the exposure  
3 of millions of urban and rural Californians to unhealthy air.  
4 Compared with fire activities in 1986, recent wildfires in the  
5 western United States have occurred nearly four times more often,  
6 burned more than six times the land area, and lasted almost five  
7 times as long.

8 (2) Climate change, an epidemic of dead and dying trees, a  
9 century of fire exclusion, and the proliferation of new homes in  
10 the wildland-urban interface magnify this threat and place  
11 substantially more people and property at risk than in preceding  
12 decades. More than 25,000,000 acres of California wildlands are  
13 classified as under very high or extreme fire threat, extending that  
14 risk over one-half of the state. More than 2,000,000 California  
15 households and approximately one in four residential structures  
16 in California are located within or near “high” or “very high” fire  
17 hazard severity zones identified on maps drawn by the Department  
18 of Forestry and Fire Protection.

19 (3) Certain populations in the state are particularly vulnerable  
20 to wildfire. These Californians live in communities that face  
21 near-term public safety threats given their location and geography.  
22 Some residents in these areas are made further vulnerable due to  
23 factors such as age and lack of mobility. The tragic loss of life and  
24 property in the Town of Paradise during the 2018 Camp Fire  
25 demonstrates that vulnerability.

26 (4) While California has stringent building standards for new  
27 construction and requirements for the maintenance of defensible  
28 space in wildfire hazard areas, the intensity of the wildfire threat  
29 in California warrants higher levels of action and fortitude.  
30 California must develop scalable statewide options to encourage  
31 cost-effective structure hardening to create fire-resistant homes,  
32 businesses, and public buildings within wildfire hazard areas, with  
33 a focus on vulnerable communities.

34 (5) California must also increase the pace and scale of defensible  
35 space assessments, inspections, and community education across  
36 the state. Creating and maintaining defensible space is essential  
37 for increasing a home’s chance of surviving a wildfire. California  
38 should encourage and use all available resources, including  
39 community organizations and local governments, to help

1 homeowners and businesses understand how to create and maintain  
2 defensible space around their properties.

3 (6) Ember ignitions are responsible for the majority of wildland  
4 fire home ignitions. Establishing a five-foot ember-resistant zone  
5 around a structure to eliminate specified materials near structures  
6 that will likely be ignited by embers provides important new  
7 protections that enhance a home's chance of surviving a wildfire.

8 (b) It is the intent of the Legislature that the amendments made  
9 by this act to Sections 51182 and 51186 of the Government Code  
10 and Section 4291 of the Public Resources Code, which create a  
11 requirement for an ember-resistant zone five feet from a structure,  
12 should be phased in over time for existing structures.

13 (c) It is the intent of the Legislature that the Department of  
14 Forestry and Fire Protection pursue collaborative approaches to  
15 achieve compliance with new defensible space requirements, taking  
16 into account property owners' financial resources and the scope  
17 of work necessary to achieve compliance.

18 (d) It is the intent of the Legislature that the Department of  
19 Forestry and Fire Protection take enforcement actions on violations  
20 as a last resort in seeking compliance with the ember-resistant zone  
21 requirements for existing structures.

22 SEC. 2. Section 51182 of the Government Code is amended  
23 to read:

24 51182. (a) A person who owns, leases, controls, operates, or  
25 maintains an occupied dwelling or occupied structure in, upon, or  
26 adjoining a mountainous area, forest-covered land, brush-covered  
27 land, grass-covered land, or land that is covered with flammable  
28 material, which area or land is within a very high fire hazard  
29 severity zone designated by the local agency pursuant to Section  
30 51179, shall at all times do all of the following:

31 (1) (A) Maintain defensible space of 100 feet from each side  
32 and from the front and rear of the structure, but not beyond the  
33 property line except as provided in subparagraph (B). The amount  
34 of fuel modification necessary shall consider the flammability of  
35 the structure as affected by building material, building standards,  
36 location, and type of vegetation. Fuels shall be maintained in a  
37 condition so that a wildfire burning under average weather  
38 conditions would be unlikely to ignite the structure. This  
39 subparagraph does not apply to single specimens of trees or other  
40 vegetation that are well-pruned and maintained so as to effectively

1 manage fuels and not form a means of rapidly transmitting fire  
2 from other nearby vegetation to a structure or from a structure to  
3 other nearby vegetation. The intensity of fuels management may  
4 vary within the 100-foot perimeter of the structure, with more  
5 intense fuel reductions being used between 5 and 30 feet around  
6 the structure, and an ember-resistant zone being required within  
7 5 feet of the structure, based on regulations promulgated by the  
8 State Board of Forestry and Fire Protection, in consultation with  
9 the Department of Forestry and Fire Protection, to consider the  
10 elimination of materials in the ember-resistant zone that would  
11 likely be ignited by embers. Consistent with fuels management  
12 objectives, steps should be taken to minimize erosion.

13 (B) A greater distance than that required under subparagraph  
14 (A) may be required by state law, local ordinance, rule, or  
15 regulation. Clearance beyond the property line may only be  
16 required if the state law, local ordinance, rule, or regulation  
17 includes findings that the clearing is necessary to significantly  
18 reduce the risk of transmission of flame or heat sufficient to ignite  
19 the structure, and there is no other feasible mitigation measure  
20 possible to reduce the risk of ignition or spread of wildfire to the  
21 structure. Clearance on adjacent property shall only be conducted  
22 following written consent by the adjacent landowner.

23 (C) An insurance company that insures an occupied dwelling  
24 or occupied structure may require a greater distance than that  
25 required under subparagraph (A) if a fire expert, designated by the  
26 fire chief or fire official from the authority having jurisdiction,  
27 provides findings that the clearing is necessary to significantly  
28 reduce the risk of transmission of flame or heat sufficient to ignite  
29 the structure, and there is no other feasible mitigation measure  
30 possible to reduce the risk of ignition or spread of wildfire to the  
31 structure. The greater distance may not be beyond the property  
32 line unless allowed by state law, local ordinance, rule, or regulation.

33 (2) Remove that portion of a tree that extends within 10 feet of  
34 the outlet of a chimney or stovepipe.

35 (3) Maintain a tree, shrub, or other plant adjacent to or  
36 overhanging a building free of dead or dying wood.

37 (4) Maintain the roof of a structure free of leaves, needles, or  
38 other vegetative materials.

39 (5) Before constructing a new dwelling or structure that will be  
40 occupied or rebuilding an occupied dwelling or occupied structure

1 damaged by a fire in that zone, the construction or rebuilding of  
2 which requires a building permit, the owner shall obtain a  
3 certification from the local building official that the dwelling or  
4 structure, as proposed to be built, complies with all applicable state  
5 and local building standards, including those described in  
6 subdivision (b) of Section 51189, and shall provide a copy of the  
7 certification, upon request, to the insurer providing course of  
8 construction insurance coverage for the building or structure. Upon  
9 completion of the construction or rebuilding, the owner shall obtain  
10 from the local building official, a copy of the final inspection report  
11 that demonstrates that the dwelling or structure was constructed  
12 in compliance with all applicable state and local building standards,  
13 including those described in subdivision (b) of Section 51189, and  
14 shall provide a copy of the report, upon request, to the property  
15 insurance carrier that insures the dwelling or structure.

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

21 (c) (1) *The State Board of Forestry and Fire Protection, in*  
22 *consultation with the Department of Forestry and Fire Protection*  
23 *Protection, shall develop, periodically update, and post on its*  
24 *internet website a guidance document on fuels management*  
25 *pursuant to this chapter. The guidance document shall include, but*  
26 *not be limited to, regionally appropriate vegetation management*  
27 *suggestions that preserve and restore native species that are fire*  
28 *resistant or drought tolerant, or both, minimize erosion, minimize*  
29 *water consumption, and permit trees near homes for shade,*  
30 *aesthetics, and habitat; and suggestions to minimize or eliminate*  
31 *the risk of flammability of nonvegetative sources of combustion*  
32 *such as woodpiles, propane tanks, decks, and outdoor lawn*  
33 *furniture.*

34 (2) On or before January 1, 2023, *the State Board of Forestry*  
35 *and Fire Protection, in consultation with the Department of*  
36 *Forestry and Fire Protection Protection, shall update the guidance*  
37 *document to include suggestions for creating an ember-resistant*  
38 *zone within five feet of a structure based on regulations*  
39 *promulgated by the State Board of Forestry and Fire Protection,*  
40 *in consultation with the Department of Forestry and Fire Protection,*

1 to consider the elimination of materials in the ember-resistant zone  
2 that would likely be ignited by embers.

3 SEC. 3. Section 51186 of the Government Code is amended  
4 to read:

5 51186. (a) The local agency having jurisdiction of property  
6 upon which conditions regulated by Section 51182 are being  
7 violated shall notify the owner of the property to correct the  
8 conditions. If the owner fails to correct the conditions, the local  
9 agency may cause the corrections to be made, and the expenses  
10 incurred shall become a lien on the property that is the subject of  
11 the corrections when recorded in the county recorder's office in  
12 the county in which the real property is located. The priority of  
13 the lien shall be as of the date of recording. The lien shall contain  
14 the legal description of the real property, the assessor's parcel  
15 number, and the name of the owner of record as shown on the  
16 latest equalized assessment roll.

17 (b) (1) Each local agency having jurisdiction of property upon  
18 which conditions that are regulated by Section 51182 apply shall  
19 make reasonable efforts to provide notice to affected residents  
20 within the jurisdiction of the local agency describing the  
21 requirements added by the amendments to paragraph (1) of  
22 subdivision (a) of Section 51182 made in Assembly Bill \_\_\_\_\_  
23 3074 of the 2019–20 Regular Session before the imposition of  
24 penalties for violating those requirements.

25 (2) (A) The requirement for an ember-resistant zone pursuant  
26 to Section 51182 shall not take effect for new structures until the  
27 ~~Department~~ *State Board* of Forestry and Fire Protection updates  
28 the guidance document pursuant to paragraph (2) of subdivision  
29 (c) of Section 51182.

30 (B) The requirements for an ember-resistant zone pursuant to  
31 Section 51182 shall take effect for existing structures one year  
32 after the effective date for the new structures.

33 SEC. 4. Section 4291 of the Public Resources Code is amended  
34 to read:

35 4291. (a) A person who owns, leases, controls, operates, or  
36 maintains a building or structure in, upon, or adjoining a  
37 mountainous area, forest-covered lands, brush-covered lands,  
38 grass-covered lands, or land that is covered with flammable  
39 material, shall at all times do all of the following:

1 (1) (A) Maintain defensible space of 100 feet from each side  
2 and from the front and rear of the structure, but not beyond the  
3 property line, except as provided in subparagraph (B). The amount  
4 of fuel modification necessary shall consider the flammability of  
5 the structure as affected by building material, building standards,  
6 location, and type of vegetation. Fuels shall be maintained in a  
7 condition so that a wildfire burning under average weather  
8 conditions would be unlikely to ignite the structure. This  
9 subparagraph does not apply to single specimens of trees or other  
10 vegetation that are well-pruned and maintained so as to effectively  
11 manage fuels and not form a means of rapidly transmitting fire  
12 from other nearby vegetation to a structure or from a structure to  
13 other nearby vegetation. The intensity of fuels management may  
14 vary within the 100-foot perimeter of the structure, with more  
15 intense fuel reductions being utilized between 5 and 30 feet around  
16 the structure, and an ember-resistant zone being required within  
17 5 feet of the structure, based on regulations promulgated by the  
18 board, in consultation with the department, to consider the  
19 elimination of materials in the ember-resistant zone that would  
20 likely be ignited by embers. Consistent with fuels management  
21 objectives, steps should be taken to minimize erosion. For the  
22 purposes of this subparagraph, “fuel” means any combustible  
23 material, including petroleum-based products and wildland fuels.

24 (B) A greater distance than that required under subparagraph  
25 (A) may be required by state law, local ordinance, rule, or  
26 regulation. Clearance beyond the property line may only be  
27 required if the state law, local ordinance, rule, or regulation  
28 includes findings that the clearing is necessary to significantly  
29 reduce the risk of transmission of flame or heat sufficient to ignite  
30 the structure, and there is no other feasible mitigation measure  
31 possible to reduce the risk of ignition or spread of wildfire to the  
32 structure. Clearance on adjacent property shall only be conducted  
33 following written consent by the adjacent landowner.

34 (C) An insurance company that insures an occupied dwelling  
35 or occupied structure may require a greater distance than that  
36 required under subparagraph (A) if a fire expert, designated by the  
37 director, provides findings that the clearing is necessary to  
38 significantly reduce the risk of transmission of flame or heat  
39 sufficient to ignite the structure, and there is no other feasible  
40 mitigation measure possible to reduce the risk of ignition or spread



1 of wildfire to the structure. The greater distance may not be beyond  
2 the property line unless allowed by state law, local ordinance, rule,  
3 or regulation.

4 (2) Remove that portion of a tree that extends within 10 feet of  
5 the outlet of a chimney or stovepipe.

6 (3) Maintain a tree, shrub, or other plant adjacent to or  
7 overhanging a building free of dead or dying wood.

8 (4) Maintain the roof of a structure free of leaves, needles, or  
9 other vegetative materials.

10 (5) Before constructing a new building or structure or rebuilding  
11 a building or structure damaged by a fire in an area subject to this  
12 section, the construction or rebuilding of which requires a building  
13 permit, the owner shall obtain a certification from the local building  
14 official that the dwelling or structure, as proposed to be built,  
15 complies with all applicable state and local building standards,  
16 including those described in subdivision (b) of Section 51189 of  
17 the Government Code, and shall provide a copy of the certification,  
18 upon request, to the insurer providing course of construction  
19 insurance coverage for the building or structure. Upon completion  
20 of the construction or rebuilding, the owner shall obtain from the  
21 local building official, a copy of the final inspection report that  
22 demonstrates that the dwelling or structure was constructed in  
23 compliance with all applicable state and local building standards,  
24 including those described in subdivision (b) of Section 51189 of  
25 the Government Code, and shall provide a copy of the report, upon  
26 request, to the property insurance carrier that insures the dwelling  
27 or structure.

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

33 (c) (1) Except as provided in Section 18930 of the Health and  
34 Safety Code, the director may adopt regulations exempting a  
35 structure with an exterior constructed entirely of nonflammable  
36 materials, or, conditioned upon the contents and composition of  
37 the structure, the director may vary the requirements respecting  
38 the removing or clearing away of flammable vegetation or other  
39 combustible growth with respect to the area surrounding those  
40 structures.

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

8 (d) The director may authorize the removal of vegetation that  
9 is not consistent with the standards of this section. The director  
10 may prescribe a procedure for the removal of that vegetation and  
11 make the expense a lien upon the building, structure, or grounds,  
12 in the same manner that is applicable to a legislative body under  
13 Section 51186 of the Government Code.

14 (e) (1) ~~The department board~~, *in consultation with the*  
15 *department*, shall develop, periodically update, and post on its  
16 internet website a guidance document on fuels management  
17 pursuant to this chapter. The guidance document shall include, but  
18 not be limited to, regionally appropriate vegetation management  
19 suggestions that preserve and restore native species that are fire  
20 resistant or drought tolerant, or both, minimize erosion, minimize  
21 water consumption, and permit trees near homes for shade,  
22 aesthetics, and habitat; and suggestions to minimize or eliminate  
23 the risk of flammability of nonvegetative sources of combustion  
24 such as woodpiles, propane tanks, decks, and outdoor lawn  
25 furniture.

26 (2) On or before January 1, 2023, ~~the department board~~, *in*  
27 *consultation with the department*, shall update the guidance  
28 document to include suggestions for creating an ember-resistant  
29 zone within five feet of a structure, based on regulations  
30 promulgated by the board, in consultation with the department, to  
31 consider the elimination of materials in the ember-resistant zone  
32 that would likely be ignited by embers.

33 (f) The department shall do both of the following:

34 (1) ~~Identify~~ *Recommend to the board* the types of vegetation or  
35 fuel that are to be excluded from an ember-resistant zone based  
36 on the probability that vegetation and fuel will lead to ignition by  
37 ember of a structure as a part of the update to the guidance  
38 document pursuant to paragraph (2) of subdivision (e).

39 (2) (A) Make reasonable efforts to provide notice to affected  
40 residents describing the requirements added by the amendments

1 to paragraph (1) of subdivision (a) made in Assembly Bill \_\_\_\_\_  
2 3074 of the 2019–20 Regular Session before the imposition of  
3 penalties for violating those requirements.

4 (B) (i) The requirement for an ember-resistant zone pursuant  
5 to paragraph (1) of subdivision (a) shall not take effect for new  
6 structures until the ~~department~~ *board* updates the guidance  
7 document pursuant to paragraph (2) of subdivision (e).

8 (ii) The requirement for an ember-resistant zone pursuant to  
9 paragraph (1) of subdivision (a) shall take effect for existing  
10 structures one year after the effective date for the new structures.

11 (g) As used in this section, “person” means a private individual,  
12 organization, partnership, limited liability company, or corporation.

13 SEC. 5. No reimbursement is required by this act pursuant to  
14 Section 6 of Article XIII B of the California Constitution for certain  
15 costs that may be incurred by a local agency or school district  
16 because, in that regard, this act creates a new crime or infraction,  
17 eliminates a crime or infraction, or changes the penalty for a crime  
18 or infraction, within the meaning of Section 17556 of the  
19 Government Code, or changes the definition of a crime within the  
20 meaning of Section 6 of Article XIII B of the California  
21 Constitution.

22 However, if the Commission on State Mandates determines that  
23 this act contains other costs mandated by the state, reimbursement  
24 to local agencies and school districts for those costs shall be made  
25 pursuant to Part 7 (commencing with Section 17500) of Division  
26 4 of Title 2 of the Government Code.