

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 HOUSE BILL 1218

By: Hardin (Tommy) of the House

5 and

6 **Simpson** of the Senate

7
8
9 AS INTRODUCED

10 An Act relating to agriculture; amending 2 O.S. 2011,
11 Section 16-26, as last amended by Section 1, Chapter
12 351, O.S.L. 2016 (2 O.S. Supp. 2018, Section 16-26),
 which relates to burning prohibitions; expanding
 definition; and providing an effective date.

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15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 2 O.S. 2011, Section 16-26, as
17 last amended by Section 1, Chapter 351, O.S.L. 2016 (2 O.S. Supp.
18 2018, Section 16-26), is amended to read as follows:

19 Section 16-26. A. 1. It is unlawful for any person to set
20 fire to any forest, grass, range, crop, or other wildlands, or to
21 build a campfire or bonfire, or to burn trash or other material that
22 may cause a forest, grass, range, crop or other wildlands fire in
23 any county, counties or area within a county where, because of
24 emergency drought conditions, there is gubernatorially proclaimed

1 extraordinary danger from fire, unless the setting of any backfire
2 during the drought emergency is necessary to afford protection as
3 determined by a representative of the Division of Forestry, or
4 unless it can be established that the setting of the backfire was
5 necessary for the purpose of saving life or property. The burden of
6 proving the necessity shall rest on the person claiming a defense.

7 2. The Division of Forestry shall advise the Governor when the
8 lands described in paragraph 1 of this subsection in any county,
9 counties or area within a county of this state because of emergency
10 drought conditions are in extraordinary danger from fire. The
11 Governor may by proclamation declare a drought emergency to exist
12 and describe the general boundaries of the area affected.

13 3. Any proclamation promulgated by the Governor under authority
14 of this subsection shall be effective immediately upon the
15 Governor's signed approval of the emergency proclamation and shall
16 supersede any resolution passed by a board of county commissioners
17 pursuant to subsection B of this section. Notice of the
18 proclamation shall occur through posting on the Oklahoma Department
19 of Agriculture, Food, and Forestry's website and informing local
20 news media. Evidence of publication or posting as herein provided
21 shall be maintained by the Forestry Division.

22 4. When conditions warrant, due notice of the termination of
23 the emergency shall be promptly made by proclamation, which shall be
24 published or posted in like manner as when officially declared.

1 5. Any person who violates this subsection is guilty of a
2 misdemeanor punishable by a fine of not more than One Thousand
3 Dollars (\$1,000.00), by imprisonment for not more than one (1) year,
4 or both.

5 B. 1. It is unlawful for any person to set fire to any forest,
6 grass, range, crop or other wildlands, or to build a campfire or
7 bonfire, or to burn trash or other material that may cause a forest,
8 grass, range, crop or other wildlands fire in any county of this
9 state in which the board of county commissioners of the county has
10 passed a resolution declaring a period of extreme fire danger. As
11 used in this subsection, "extreme fire danger" means:

12 a. all three of the following conditions are present:

13 (1) severe, extreme, or exceptional drought
14 conditions exist as determined by the National
15 Oceanic and Atmospheric Administration (NOAA)
16 pursuant to its criteria,

17 ~~b.~~ (2) no more than one-half (1/2) inch of precipitation
18 is forecast for the next three (3) days, and

19 ~~c.~~ (3) either of the following:

20 ~~(1)~~

21 (a) fire occurrence is significantly greater
22 than normal for the season and/or initial
23 attack on a significant number of wildland
24

1 fires has been unsuccessful due to extreme
2 fire behavior, or

3 ~~(2)~~

4 (b) where data is available, more than twenty
5 percent (20%) of the wildfires in the county
6 have been caused by escaped debris or
7 controlled burning, or

8 b. temperatures for any day over the next three (3) days
9 are forecasted at or over one hundred (100) degrees
10 Fahrenheit.

11 2. A majority of the board of county commissioners may call an
12 emergency meeting at any time to pass or revoke a resolution
13 declaring a period of extreme fire danger in accordance with this
14 section.

15 3. A board of county commissioners shall have the documented
16 concurrence of a majority of the chiefs, or their designees, of the
17 municipal and certified rural fire departments located in the county
18 that a period of extreme fire danger exists prior to passage of a
19 resolution declaring a period of extreme fire danger in the county.
20 The resolution shall be effective for a period not to exceed
21 fourteen (14) days from the date of passage by the board of county
22 commissioners, unless the burn ban is removed earlier by the same
23 method by which it was approved. If extreme fire danger conditions
24 persist, subsequent resolutions may be passed by the board of county

1 commissioners in the same manner as provided in this paragraph. The
2 board of county commissioners, in the resolution, may grant
3 exceptions to the fire prohibition based on appropriate
4 precautionary measures.

5 4. Agricultural producers burning cropland, rangeland, forests
6 or pastures as a preferred method of managing their property shall
7 be exempt from any resolution passed by a board of county
8 commissioners that declares a period of extreme fire danger so long
9 as the agricultural producers have complied with the following
10 procedures:

11 a. submit a written prescribed burn plan to the local
12 fire department and, if within a protection area, the
13 local office or local representative of the Forestry
14 Division of the Oklahoma Department of Agriculture,
15 Food, and Forestry nearest the land to be burned that
16 shall include the following information:

- 17 (1) the name and telephone number of the agricultural
18 producer conducting the burn,
19 (2) the address and legal description of the area to
20 be burned,
21 (3) the objective and purpose of the burn,
22 (4) a list of fire departments and sheriff's offices
23 that are required to be notified pursuant to
24 subparagraph c of this paragraph,

- (5) a list of adjoining landowners required to be notified pursuant to Section 16-28.2 of this title,
- (6) a description of any firebreaks used to define the boundary of the prescribed burn,
- (7) a statement of prescribed weather conditions,
- (8) a description of any smoke-management considerations, and
- (9) an ignition plan for the burn,

b. keep a copy of the written prescribed burn plan provided for in subparagraph a of this paragraph on site when conducting the prescribed burn,

c. notify the county sheriff and the dispatch center of the local fire department prior to conducting the prescribed burn, and

d. comply with the notification procedures outlined in Section 16-28.2 of this title.

5. The prescribed burn plan provided for in paragraph 4 of this subsection shall be deemed approved seventy-two (72) hours after submission to the local fire department; provided, that the local fire department may amend the submitted burn plan within seventy-two (72) hours after submission.

1 6. The prescribed burn plan provided for in paragraph 4 of this
2 subsection shall not include campfires, household trash, debris or
3 pile burning.

4 7. Nothing in paragraph 4 of this subsection shall supersede
5 requirements set by a proclamation promulgated by the Governor under
6 authority of this section, interfere with the authority of the
7 Oklahoma Department of Agriculture, Food, and Forestry to enforce
8 burning laws or change the burner's liability as prescribed by law.

9 8. Any resolution passed by a board of county commissioners
10 under authority of this subsection shall be effective immediately
11 upon passage of the resolution. Notice of the resolution shall be
12 submitted to the Forestry Division of the Oklahoma Department of
13 Agriculture, Food, and Forestry, all local news media, local law
14 enforcement officials, and the state headquarters of the Department
15 of Public Safety, the Oklahoma Tourism and Recreation Department and
16 the Department of Wildlife Conservation on the day of passage of the
17 resolution. Evidence of publication or posting as provided in this
18 paragraph shall be maintained by the county.

19 9. The provisions of this subsection may be enforced by any law
20 enforcement officer of this state.

21 10. Any person convicted of violating the provisions of this
22 subsection shall be guilty of a misdemeanor and shall be subject to
23 a fine of not more than Five Hundred Dollars (\$500.00), to
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1 imprisonment for not more than one (1) year, or to both such fine
2 and imprisonment.

3 11. The selling of fireworks shall not be considered an act in
4 violation of this subsection.

5 SECTION 2. This act shall become effective November 1, 2019.

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7 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT,
8 dated 02/18/2019 - DO PASS, As Coauthored.

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