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April 1, 2019

ENGROSSED HOUSE
BILL NO. 1218

By: Hardin (Tommy) of the House

and

Simpson of the Senate

An Act relating to agriculture; amending 2 O.S. 2011, Section 16-26, as last amended by Section 1, Chapter 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.

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

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

Section 16-26. A. 1. It is unlawful for any person to set fire to any forest, grass, range, crop, or other wildlands, or to build a campfire or bonfire, or to burn trash or other material that may cause a forest, grass, range, crop or other wildlands fire in any county, counties or area within a county where, because of emergency drought conditions, there is gubernatorially proclaimed extraordinary danger from fire, unless the setting of any backfire during the drought emergency is necessary to afford protection as determined by a representative of the Division of Forestry, or

1 unless it can be established that the setting of the backfire was
2 necessary for the purpose of saving life or property. The burden of
3 proving the necessity shall rest on the person claiming a defense.

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

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

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

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

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

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

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

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

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

18 ~~(1)~~

19 (a) fire occurrence is significantly greater
20 than normal for the season and/or initial
21 attack on a significant number of wildland
22 fires has been unsuccessful due to extreme
23 fire behavior, or

24 ~~(2)~~

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

5 **b.** temperatures for any day over the next three (3) days
6 are forecasted at or over one hundred (100) degrees
7 Fahrenheit.

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

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

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

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

- 15 (1) the name and telephone number of the agricultural
16 producer conducting the burn,
17 (2) the address and legal description of the area to
18 be burned,
19 (3) the objective and purpose of the burn,
20 (4) a list of fire departments and sheriff's offices
21 that are required to be notified pursuant to
22 subparagraph c of this paragraph,
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- 1 (5) a list of adjoining landowners required to be
2 notified pursuant to Section 16-28.2 of this
3 title,
4 (6) a description of any firebreaks used to define
5 the boundary of the prescribed burn,
6 (7) a statement of prescribed weather conditions,
7 (8) a description of any smoke-management
8 considerations, and
9 (9) an ignition plan for the burn,

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

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

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

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

6 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND WILDLIFE
7 April 1, 2019 - DO PASS
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