SB 1360

THE STATE SENATE
Thursday, February 12, 2004

Senate Bill No. 1360

As Amended

SENATE BILL NO. 1360 - By: LAUGHLIN of the Senate and COVEY of the House.

[agriculture - burn masters – codification - effective date]

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

SECTION 1. AMENDATORY 2 O.S. 2001, Section 16-2, is amended to read as follows:

Section 16-2. As used in the Oklahoma Forestry Code:

1. "Director" means the Director of Forestry of the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry;

2. "Division" means the Forestry Division of the ~~State~~ Oklahoma Department of Agriculture, Food, and Forestry;

3. "Established property line" means any boundary line which has been:

a. recognized by adjoining land owners as a boundary and uncontested for at least fifteen (15) years including, but not limited to, fence lines, roads, and natural features,

b. established by a registered land surveyor, or

c. uncontested for at least fifteen (15) years;

(Bold face denotes Committee Amendments)

4. “Forest rangers” means all employees of the Forestry Division who have responsibilities in forest protection, including laborers, mechanics, and other employees who assist in forest protection;

5. “Forest” means a tract of land that is at least ten percent (10%) stocked by trees of any size, whether of commercial or noncommercial species, or formerly having tree cover and not currently developed for nonforest use, including woodlands, woodlots, windbreaks, and shelterbelts;

6. “Logging or timber harvesting operations” means the cutting or harvesting of and removal of timber from a site, leaving the root mass intact;

7. “Owner” means the possessor of a fee interest, a tenant, lessee, occupant, or other person in lawful control of land;

8. “Prescribed burning” means the controlled application by the owner of croplands, rangelands, or forestlands of fire to naturally occurring vegetative fuel under specified environmental conditions and following appropriate precautionary measures, which causes the fire to be confined to a predetermined area and accomplish land management objectives. Any person conducting a prescribed burn shall comply with the provisions of Section 16-28.2 of this title;

9. "Timber" means live and dead trees and the profit in any live and dead trees including, but not limited to, bark, foliage, wood, vines, firewood, crossties, and shrubbery;

10. "Timber owner" means any person who owns the right to cut or harvest timber at the time the timber is to be cut or harvested, or who legally owns the severed timber;

11. "Wildfires" means any fire which is not controlled on forests, grasslands, unimproved fields, or croplands; ~~and~~

12. "Wild lands" means any unimproved lands regardless of kind of vegetative plant cover including forests, prairies, marshes, and swamps

13. "Burn master" means a person who has fulfilled the education, training, and certification requirements of the Department to conduct certified prescribed burning; and

14. "Certified prescribed burning" means the controlled application by a burn master of fire to naturally occurring vegetative fuel under specified environmental conditions and following appropriate precautionary measures, which causes the fire to be confined to a predetermined area and accomplish land management objectives, as specified by Department rules.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 16-28.3 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The Legislature finds it in the public interest to encourage and assist private and public land owners in managing their property by promoting the use of certified prescribed burning performed by burn masters. Of particular concern is the increasing infestation of land by eastern red cedar (Juniperus virginiana), which is no longer checked by natural prairie wildfire. The use of certified prescribed burning will restore native plant and wildlife habitat, maintain and improve agricultural grazing production, improve water quality and increase water quantity, minimize dangereous fuel loads in the wildland and urban interface, and may reduce human allergic reactions. The public benefits of land management from the use of certified prescribed burning are environmental, economic, aesthetic, health, and safety related.

B. The Oklahoma Department of Agriculture, Food, and Forestry shall develop and implement an education, training, and certification program for burn masters, to qualify persons to conduct certified prescribed burning. The Department may charge a reasonable fee for the program.

C. The Department shall develop rules for certified prescribed burning. Such rules shall be consistent with the Oklahoma USDA Natural Resource Conservation Service's prescribed burning practice and recommendations from Oklahoma State University.

D. The Department shall work with the Legislature, Oklahoma State Insurance Department, farm and ranch organizations, wildlife organizations, insurance companies and other interested parties to develop recommendations to the Legislature regarding:

1. How liability may be transferred from the owner to the burn master to facilitate certified prescribed burning;

2. How liability insurance coverage may be provided at a reasonable cost for the owner and/or burn master for certified burning;

3. Whether liability may be limited by insurance coverage prescribed by statutory limits; and

4. Whether it may be necessary for the state to underwrite or administer liability coverage to facilitate certified prescribed burning.

SECTION 3. This act shall become effective November 1, 2004.

COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT, dated 2-10-04 - DO PASS, As Amended and Coauthored.