

ENGROSSED
House Bill No. 2984
As Amended

ENGROSSED HOUSE BILL NO. 2984 - By: JETT, HILLIARD, HYMAN, ROAN and SHOEMAKE of the House and SHURDEN of the Senate.

[environment - lawful burning - effective date]

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

SECTION 1. AMENDATORY 2 O.S. 2001, Section 16-24.1, is amended to read as follows:

Section 16-24.1 A. It shall be lawful for an owner of croplands, rangelands or forestlands to set the croplands, rangelands or forestlands on fire for the purposes of:

- 1. Managing and manipulating plant species present whether grass, weeds, brush or trees; ~~and~~
- 2. Destroying detrimental or unwanted plants, plant parts, shrubs or trees on the croplands, rangelands or forestlands; and
- 3. Cedar tree eradication.

B. The provisions of this section shall not be construed to exempt or release a person from civil liability for damages or injury incurred as a result of the burn or for criminal liability as imposed pursuant to the Oklahoma Forestry Code.

1 SECTION 2. AMENDATORY 21 O.S. 2001, Section 1753.3, is
2 amended to read as follows:

3 Section 1753.3 A. The operator of a vehicle, unless any other
4 person in the vehicle admits to or is identified as having committed
5 the act, shall be liable pursuant to subsection B of this section
6 for any act of throwing, dropping, depositing, or otherwise placing
7 any litter from a vehicle upon highways, roads, or public property.

8 B. Any person convicted of violating the provisions of
9 subsection A of this section shall be subject to a state traffic
10 offense punishable by a fine of not more than One Thousand Dollars
11 (\$1,000.00) and upon conviction shall be sentenced to perform not
12 less than five (5) nor more than twenty (20) hours of community
13 service in a litter abatement work program as approved by the court,
14 or the violator may be subject to criminal prosecution as provided
15 by the provisions of Section 1761.1 of this title. The penalties
16 collected from the payment of ~~such~~ the citations shall, after
17 deduction of court costs, be paid into the reward fund created
18 pursuant to Section 1334 of Title 22 of the Oklahoma Statutes.

19 C. Any person convicted of violating the provisions of
20 subsection A of this section with any flaming or glowing substances
21 except those which by law may be placed upon highway rights-of-way,
22 or any substance which may cause a fire shall be subject to a state
23 traffic offense punishable by a fine of not more than Two Thousand

1 Dollars (\$2,000.00) and upon conviction shall be sentenced to
2 perform not less than ten (10) nor more than forty (40) hours of
3 community service in a litter abatement work program as approved by
4 the court, or the violator may be subject to criminal prosecution as
5 provided by the provisions of Section 1761.1 of this title. The
6 penalties collected from the payment of the citations shall, after
7 deduction of court costs, be paid to the fire department of the
8 district in which the flaming or glowing substance was discarded.

9 D. During a declared burn ban by the Governor, any person
10 convicted of violating the provisions of subsection A of this
11 section with any flaming or glowing substances except those which by
12 law may be placed upon highway rights-of-way, or any substance which
13 may cause a fire shall be subject to a state traffic offense
14 punishable by a fine of not more than Four Thousand Dollars
15 (\$4,000.00) and upon conviction shall be sentenced to perform not
16 less than twenty (20) nor more than eighty (80) hours of community
17 service in a litter abatement work program as approved by the court,
18 or the violator may be subject to criminal prosecution as provided
19 by the provisions of Section 1761.1 of this title. The penalties
20 collected from the payment of the citations shall, after deduction
21 of court costs, be paid to the fire department of the district in
22 which the flaming or glowing substance was discarded.

1 E. As used in this section, "litter" means any flaming or
2 glowing substances except those which by law may be placed upon
3 highway rights-of-way, any substance which may cause a fire, any
4 bottles, cans, trash, garbage, or debris of any kind. As used in
5 this section, "litter" shall not include trash, garbage, or debris
6 placed beside a public road for collection by a garbage or
7 collection agency, or deposited upon or within public property
8 designated by the state or by any of its agencies or political
9 subdivisions as an appropriate place for such deposits if the person
10 making the deposit is authorized to use the property for such
11 purpose.

12 SECTION 3. AMENDATORY 21 O.S. 2001, Section 1761.1, is
13 amended to read as follows:

14 Section 1761.1 A. Any person who deliberately places, throws,
15 drops, dumps, deposits, or discards any garbage, trash, waste,
16 rubbish, refuse, debris, or other deleterious substance on any
17 public property or on any private property of another without
18 consent of the property owner shall be deemed guilty of a
19 misdemeanor.

20 B. Any person convicted of violating the provisions of
21 subsection A of this section shall be punished by a fine of not less
22 than Two Hundred Dollars (\$200.00) nor more than Five Thousand

1 Dollars (\$5,000.00) or by imprisonment in the county jail for not
2 more than thirty (30) days, or by both such fine and imprisonment.

3 C. Any person convicted of violating the provisions of
4 subsection A of this section with any flaming or glowing substance,
5 or any substance which may cause a fire shall be punished by a fine
6 of not less than Two Thousand Dollars (\$2,000.00) nor more than Five
7 Thousand Dollars (\$5,000.00) or by imprisonment in the county jail
8 for not more than sixty (60) days, or by both such fine and
9 imprisonment. The penalties collected from the payment of the
10 citations shall, after deduction of court costs, be paid to the fire
11 department of the district in which the flaming or glowing substance
12 was discarded. Any person violating the provisions of this
13 subsection shall be liable for all damages caused by the violation.
14 Damages shall be recoverable in any court of competent jurisdiction.

15 D. During a burn ban declared by the Governor, any person
16 convicted of violating the provisions of subsection A of this
17 section with any flaming or glowing substances, or any substance
18 which may cause a fire shall be punished by a fine of not less than
19 Four Thousand Dollars (\$4,000.00) nor more than Ten Thousand Dollars
20 (\$10,000.00) or by imprisonment in the county jail for not more than
21 one hundred twenty (120) days, or by both such fine and
22 imprisonment. The penalties collected from the payment of the
23 citations shall, after deduction of court costs, be paid to the fire

1 department of the district in which the flaming or glowing substance
2 was discarded. Any person violating the provisions of this
3 subsection shall be liable for all damages caused by the violation.
4 Damages shall be recoverable in any court of competent jurisdiction.

5 E. In addition to the penalty prescribed by subsection B of
6 this section, the court shall direct the person to make restitution
7 to the property owner affected; to remove and properly dispose of
8 the garbage, trash, waste, rubbish, refuse, or debris from the
9 property; to pick up, remove, and properly dispose of garbage,
10 trash, waste, rubbish, refuse, debris, and other nonhazardous
11 deleterious substances from public property; or perform community
12 service or any combination of the foregoing which the court, in its
13 discretion, deems appropriate. The dates, times, and locations of
14 such activities shall be scheduled by the sheriff pursuant to the
15 order of the court in such a manner as not to interfere with the
16 employment or family responsibilities of the person.

17 ~~D.~~ F. In addition to the penalty prescribed in subsection B of
18 this section and the restitution prescribed in subsection ~~E~~ E of
19 this section, the court may order the defendant to pay into the
20 reward fund as prescribed in Section 1334 of Title 22 of the
21 Oklahoma Statutes an amount not to exceed Two Thousand Dollars
22 (\$2,000.00).

1 ~~F.~~ G. The discovery of two or more items which have been
2 dropped, dumped, deposited, discarded, placed, or thrown at one
3 location and which bear a common address in a form which tends to
4 identify the latest owner of the items shall create a rebuttable
5 presumption that any competent person residing at such address
6 committed the unlawful act. The discovery or use of such evidence
7 shall not be sufficient to qualify for the reward provided in
8 Section 1334 of Title 22 of the Oklahoma Statutes.

9 ~~F.~~ H. Any person may report a violation of this section, if
10 committed in their presence, to an officer of the State Highway
11 Patrol, a county sheriff or deputy, a municipal law enforcement
12 officer or any other peace officer in this state. The peace officer
13 shall then conduct an investigation into the allegations, if
14 warranted. If a violation of this section has in fact been
15 committed, and the peace officer has reasonable cause to believe a
16 particular person or persons have committed the violation, a report
17 shall be filed with the District Attorney for prosecution.

18 ~~G.~~ I. Notwithstanding the provisions of subsection ~~F.~~ H. of this
19 section, any peace officer of this state or of any political
20 subdivision of this state may issue a state traffic citation to any
21 person committing a violation of subsection A of this section. Such
22 state traffic citation shall be in an amount not exceeding Two
23 Hundred Dollars (\$200.00) and the penalties collected from the

1 payment of such citations shall, after deduction of court costs, be
2 divided as follows:

3 1. One-half (1/2) shall be paid into the reward fund created
4 pursuant to Section 1334 of Title 22 of the Oklahoma Statutes; and

5 2. One-half (1/2) shall be paid into the sheriff's service fee
6 account for that county to be used for enforcing provisions of this
7 section.

8 ~~H.~~ J. The amount of bail for littering offenses specified in
9 Section 1753.3 of this title and for trash dumping offenses
10 specified in this section shall be the amount of fine specified in
11 each statute plus costs including any penalty assessment, as well as
12 costs incurred in Section 1313.3 of Title 20 of the Oklahoma
13 Statutes.

14 SECTION 4. This act shall become effective November 1, 2006.

15 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,
16 dated 4-4-06 - DO PASS, As Amended.