

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 1816

By: Barrington of the Senate

and

6 Armes of the House

7  
8  
9 COMMITTEE SUBSTITUTE

10 ( Agriculture - authorizing county commissioners to

11 declare extreme fire danger -

12 emergency )

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14  
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. AMENDATORY 2 O.S. 2001, Section 16-26, as  
17 last amended by Section 6, Chapter 195, O.S.L. 2007 (2 O.S. Supp.  
18 2007, 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 ~~wild lands~~  
21 wildlands, or to build a campfire or bonfire, or to burn trash or  
22 other material that may cause a forest, grass, range, crop or other  
23 ~~wild lands~~ wildlands fire in any county, counties or area within a  
24 county where, because of emergency drought conditions, there is

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

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

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

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1       ~~D.~~ 4. When conditions warrant, due notice of the termination of  
2 the emergency shall be promptly made by proclamation, which shall be  
3 published or posted in like manner as when officially declared.

4       ~~E.~~ 5. Any person who violates this ~~section~~ subsection is guilty  
5 of a misdemeanor punishable by a fine of not more than ~~Five Hundred~~  
6 ~~Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), by imprisonment  
7 for not more than one (1) year, or both.

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

- 15       a. moderate, severe or extreme drought conditions exist  
16       as determined by the National Oceanic and Atmospheric  
17       Administration (NOAA) pursuant to its criteria, and  
18       b. no more than one-half (1/2) inch of precipitation is  
19       forecast for the next three (3) days, and  
20       c. fire occurrence is significantly greater than normal  
21       for the season and/or initial attack on a significant  
22       number of wildland fires has been unsuccessful due to  
23       extreme fire behavior, and

1           d. more than twenty percent (20%) of the wildfires in the  
2           county have been caused by escaped debris or  
3           controlled burning.

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

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

22           4. Any resolution passed by a board of county commissioners  
23 under authority of this subsection shall be effective immediately  
24 upon passage of the resolution. Notice of the resolution shall be

1 submitted to the Forestry Division of the Oklahoma Department of  
2 Agriculture, Food, and Forestry, all local news media, local law  
3 enforcement officials, and the state headquarters of the Department  
4 of Public Safety, the Oklahoma Tourism and Recreation Department and  
5 the Department of Wildlife Conservation on the day of passage of the  
6 resolution. Evidence of publication or posting as provided in this  
7 paragraph shall be maintained by the county.

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

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

15 SECTION 2. It being immediately necessary for the preservation  
16 of the public peace, health and safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

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20 51-2-10852 SAB 04/03/08  
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