

1 ENGROSSED SENATE  
2 BILL NO. 1816

By: Barrington of the Senate

3 and

4 Armes of the House

5  
6  
7 [ agriculture - authorizing county commissioners to  
8 declare extreme fire danger -  
9 emergency ]

10

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

12 SECTION 1. AMENDATORY 2 O.S. 2001, Section 16-26, as  
13 last amended by Section 6, Chapter 195, O.S.L. 2007 (2 O.S. Supp.  
14 2007, Section 16-26), is amended to read as follows:

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

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

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

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

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

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1        ~~E.~~ 5. Any person who violates this ~~section~~ subsection is guilty  
2 of a misdemeanor punishable by a fine of not more than ~~Five Hundred~~  
3 ~~Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), by imprisonment  
4 for not more than one (1) year, 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. moderate, severe or extreme drought conditions exist  
13            as determined by the National Oceanic and Atmospheric  
14            Administration (NOAA) pursuant to its criteria, and

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

17            c. fire occurrence is significantly greater than normal  
18            for the season and/or initial attack on a significant  
19            number of wildland fires has been unsuccessful due to  
20            extreme fire behavior, and

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

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

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

