

THE HOUSE OF REPRESENTATIVES
Tuesday, April 8, 2008

Committee Substitute for
ENGROSSED
Senate Bill No. 1816

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1816 - By:
BARRINGTON of the Senate and ARMES of the House.

(Agriculture - authorizing county commissioners to declare extreme fire
danger -
emergency)

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

1 SECTION 1. AMENDATORY 2 O.S. 2001, Section 16-26, as last amended by
2 Section 6, Chapter 195, O.S.L. 2007 (2 O.S. Supp. 2007, Section 16-26), is amended to
3 read as follows:
4 Section 16-26. A. 1. It is unlawful for any person to set fire to any forest, grass,
5 range, crop, or other ~~wild lands~~ wildlands, or to build a campfire or bonfire, or to burn
6 trash or other material that may cause a forest, grass, range, crop or other ~~wild lands~~
7 wildlands fire in any county, counties or area within a county where, because of
8 emergency drought conditions, there is gubernatorially proclaimed extraordinary danger
9 from fire, unless the setting of any backfire during the drought emergency is necessary to
10 afford protection as determined by a representative of the Division of Forestry, or unless
11 it can be established that the setting of the backfire was necessary for the purpose of

1 saving life or property. The burden of proving the necessity shall rest on the person
2 claiming a defense.

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

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

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

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

21 B. 1. It is unlawful for any person to set fire to any forest, grass, range, crop or
22 other wildlands, or to build a campfire or bonfire, or to burn trash or other material that

1 may cause a forest, grass, range, crop or other wildlands fire in any county of this state
2 in which the board of county commissioners of the county has passed a resolution
3 declaring a period of extreme fire danger. As used in this subsection, “extreme fire
4 danger” means:

- 5 a. moderate, severe or extreme drought conditions exist as determined by
6 the National Oceanic and Atmospheric Administration (NOAA)
7 pursuant to its criteria, and
8 b. no more than one-half (1/2) inch of precipitation is forecast for the next
9 three (3) days, and
10 c. fire occurrence is significantly greater than normal for the season
11 and/or initial attack on a significant number of wildland fires has been
12 unsuccessful due to extreme fire behavior, and
13 d. more than twenty percent (20%) of the wildfires in the county have
14 been caused by escaped debris or controlled burning.

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

18 3. A board of county commissioners shall have the documented concurrence of a
19 majority of the chiefs, or their designees, of the municipal and certified rural fire
20 departments located in the county that a period of extreme fire danger exists prior to
21 passage of a resolution declaring a period of extreme fire danger in the county. The
22 resolution shall be effective for a period not to exceed seven (7) days from the date of

1 passage by the board of county commissioners, unless the burn ban is removed earlier by
2 the same method by which it was approved. If extreme fire danger conditions persist,
3 subsequent resolutions may be passed by the board of county commissioners in the same
4 manner as provided in this paragraph. The board of county commissioners, in the
5 resolution, may grant exceptions to the fire prohibition based on appropriate
6 precautionary measures.

7 4. Any resolution passed by a board of county commissioners under authority of
8 this subsection shall be effective immediately upon passage of the resolution. Notice of
9 the resolution shall be submitted to the Forestry Division of the Oklahoma Department
10 of Agriculture, Food, and Forestry, all local news media, local law enforcement officials,
11 and the state headquarters of the Department of Public Safety, the Oklahoma Tourism
12 and Recreation Department and the Department of Wildlife Conservation on the day of
13 passage of the resolution. Evidence of publication or posting as provided in this
14 paragraph shall be maintained by the county.

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

17 6. Any person convicted of violating the provisions of this subsection shall be guilty
18 of a misdemeanor and shall be subject to a fine of not more than Five Hundred Dollars
19 (\$500.00), to imprisonment for not more than one (1) year, or to both such fine and
20 imprisonment.

1 SECTION 2. It being immediately necessary for the preservation of the public
2 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
3 this act shall take effect and be in full force from and after its passage and approval.
4 COMMITTEE REPORT BY: COMMITTEE ON NATURAL RESOURCES, dated 04-07-
5 08 - DO PASS, As Amended.