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THE STATE SENATE  
Wednesday, February 20, 2008

Committee Substitute for  
Senate Bill No. 1816

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

[ agriculture - authorizing the board of county  
commissioners to declare a period of extreme fire danger -  
concurrence - setting parameters -  
emergency ]

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

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

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

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

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

10 ~~C.~~ 3. Any proclamation promulgated by the Governor under  
11 authority of this ~~section~~ subsection shall be effective immediately  
12 upon the Governor's signed approval of the emergency proclamation.  
13 Notice of the proclamation shall occur through posting on the  
14 Oklahoma Department of Agriculture, Food, and Forestry's website and  
15 informing local news media. Evidence of publication or posting as  
16 herein provided shall be maintained by the Forestry Division.

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

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

1        B. 1. It is unlawful for any person to set fire to any forest,  
2 grass, range, crop or other wildlands, or to build a campfire or  
3 bonfire, or to burn trash or other material that may cause a forest,  
4 grass, range, crop or other wildlands fire in any county of this  
5 state in which the board of county commissioners of the county has  
6 passed a resolution declaring a period of extreme fire danger.

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

21        3. Any resolution passed by a board of county commissioners  
22 under authority of this subsection shall be effective immediately  
23 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 4. The provisions of this subsection may be enforced by any law  
9 enforcement officer of this state.

10 5. 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.

19 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,  
20 dated 2-18-08 - DO PASS, As Amended and Coauthored.