

THE HOUSE OF REPRESENTATIVES  
Wednesday, February 10, 2010

Committee Substitute for  
House Bill No. 3210

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3210 - By: ARMES of the House and BARRINGTON of the Senate.

An Act relating to agriculture; amending 2 O.S. 2001, Section 16-26, as last amended by Section 1, Chapter 316, O.S.L. 2008 (2 O.S. Supp. 2009, Section 16-26), which relates to emergency drought conditions and burning prohibitions; increasing effective period; exempting certain act; and declaring an 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 1, Chapter 316, O.S.L. 2008 (2 O.S. Supp. 2009, 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 wildlands, or to build a campfire or bonfire, or to burn trash or other  
6 material that may cause a forest, grass, range, crop or other wildlands fire in any county,  
7 counties or area within a county where, because of emergency drought conditions, there  
8 is gubernatorially proclaimed extraordinary danger from fire, unless the setting of any  
9 backfire during the drought emergency is necessary to afford protection as determined by  
10 a representative of 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 or property. The  
2 burden of proving the necessity shall rest on the person claiming a defense.

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

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

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

18 5. Any person who violates this subsection is guilty of a misdemeanor punishable  
19 by a fine of not more than One Thousand Dollars (\$1,000.00), by imprisonment for not  
20 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)~~ thirty (30) days from the

1 date of passage by the board of county commissioners, unless the burn ban is removed  
2 earlier by the same method by which it was approved. If extreme fire danger conditions  
3 persist, subsequent resolutions may be passed by the board of county commissioners in  
4 the same manner as provided in this paragraph. The board of county commissioners, in  
5 the 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.

21 7. The selling of fireworks shall not be considered an act in violation of this  
22 subsection.

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

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 GENERAL GOVERNMENT, dated 02-  
5 09-10 - DO PASS, As Amended and Coauthored.