

EHB 2159

1 THE STATE SENATE
2 Thursday, April 2, 2009

3 ENGROSSED

4 House Bill No. 2159

5 As Amended

6 ENGROSSED HOUSE BILL NO. 2159 - By: Armes and Shelton of the House
7 and Barrington of the Senate.

8 [agriculture - emergency drought conditions and burning
9 prohibitions -

10 emergency]

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 1, Chapter 316, O.S.L. 2008 (2 O.S. Supp.
14 2008, 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 wildlands, or to
17 build a campfire or bonfire, or to burn trash or other material that
18 may cause a forest, grass, range, crop or other wildlands fire in
19 any county, counties or area within a county where, because of
20 emergency drought conditions, there is gubernatorially proclaimed
21 extraordinary danger from fire, unless the setting of any backfire
22 during the drought emergency is necessary to afford protection as
23 determined by a representative of the Division of Forestry, or
24 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 2. The Division of Forestry shall advise the Governor when the
4 lands described in paragraph 1 of this subsection in any county,
5 counties or area within a county of this state because of emergency
6 drought conditions are in extraordinary danger from fire. The
7 Governor may by proclamation declare a drought emergency to exist
8 and describe the general boundaries of the area affected.

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

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

21 5. Any person who violates this subsection is guilty of a
22 misdemeanor punishable by a fine of not more than One Thousand

1 Dollars (\$1,000.00), by imprisonment for not more than one (1) year,
2 or both.

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

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

22 2. A majority of the board of county commissioners may call an
23 emergency meeting at any time to pass or revoke a resolution

1 declaring a period of extreme fire danger in accordance with this
2 section.

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

17 4. Any resolution passed by a board of county commissioners
18 under authority of this subsection shall be effective immediately
19 upon passage of the resolution. Notice of the resolution shall be
20 submitted to the Forestry Division of the Oklahoma Department of
21 Agriculture, Food, and Forestry, all local news media, local law
22 enforcement officials, and the state headquarters of the Department
23 of Public Safety, the Oklahoma Tourism and Recreation Department and

1 the Department of Wildlife Conservation on the day of passage of the
2 resolution. Evidence of publication or posting as provided in this
3 paragraph shall be maintained by the county.

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

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

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

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

17 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,
18 dated 3-30-09 - DO PASS, As Amended.