

1 **SENATE FLOOR VERSION**

2 April 3, 2012

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 2579

By: Mulready, Pittman, Ritze
and Joyner of the House

6 and

7 Brinkley and Barrington of
8 the Senate

9
10 An Act relating to agriculture; amending 2 O.S. 2011,
11 Section 16-26, which relates to emergency drought
12 conditions; modifying definition of extreme fire
13 danger; modifying requirement for certain
14 declarations; and providing an effective date.

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

16 SECTION 1. AMENDATORY 2 O.S. 2011, Section 16-26, is
17 amended to read as follows:

18 Section 16-26. A. 1. It is unlawful for any person to set
19 fire to any forest, grass, range, crop, or other wildlands, or to
20 build a campfire or bonfire, or to burn trash or other material that
21 may cause a forest, grass, range, crop or other wildlands fire in
22 any county, counties or area within a county where, because of
23 emergency drought conditions, there is gubernatorially proclaimed
24 extraordinary danger from fire, unless the setting of any backfire

1 during the drought emergency is necessary to afford protection as
2 determined by a representative of the Division of Forestry, or
3 unless it can be established that the setting of the backfire was
4 necessary for the purpose of saving life or property. The burden of
5 proving the necessity shall rest on the person claiming a defense.

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

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

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

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1 5. Any person who violates this subsection is guilty of a
2 misdemeanor punishable by a fine of not more than One Thousand
3 Dollars (\$1,000.00), by imprisonment for not more than one (1) year,
4 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, as determined by
17 the National Weather Service, and

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

23 d. more than twenty percent (20%) of the ~~wildfires~~
24 wildland fires in the county have been caused by

1 escaped debris or controlled burning due to the
2 natural conditions occurring within the county.

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

7 3. 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 whose jurisdiction within the county contains lands on which the
11 possibility of wildland fires exists. In order to establish that a
12 period of extreme fire danger exists prior to passage of a
13 resolution declaring a period of extreme fire danger in the county,
14 the county commissioners need only the concurrence of a majority of
15 those fire chiefs in the areas of the county affected with the
16 possibility of wildland fires. The resolution shall be effective
17 for a period not to exceed thirty (30) days from the date of passage
18 by the board of county commissioners, unless the burn ban is removed
19 earlier by the same method by which it was approved. If extreme
20 fire danger conditions persist, subsequent resolutions may be passed
21 by the board of county commissioners in the same manner as provided
22 in this paragraph. The board of county commissioners, in the
23 resolution, may grant exceptions to the fire prohibition based on
24 appropriate precautionary measures.

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

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

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

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

20 SECTION 2. This act shall become effective November 1, 2012.

21 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT,
22 dated 4-2-12 - DO PASS, As Amended and Coauthored.

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