ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE
BILL NO. 1462 By: Wallace of the House

and

Fields of the Senate

An Act relating to burn bans; amending 2 O.S. 2011, Section 16-26, as amended by Section 1, Chapter 299, O.S.L. 2013 (2 O.S. Supp. 2014, Section 16-26), which relates to emergency drought conditions; exempting agricultural producers from certain burning prohibitions under certain circumstances; and providing an effective date.

AMENDMENT NO. 1. Page 1, strike the title, enacting clause and entire bill and insert

"An Act relating to burn bans; amending 2 O.S. 2011, Section 16-26, as amended by Section 1, Chapter 299, O.S.L. 2013 (2 O.S. Supp. 2014, Section 16-26), which relates to emergency drought conditions; exempting agricultural producers from certain burning prohibitions under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 16-26, as amended by Section 1, Chapter 299, O.S.L. 2013 (2 O.S. Supp. 2014, 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 wildlands, or to build a campfire or bonfire, or to burn trash or other material that may cause a forest, grass, range, crop or other wildlands 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 necessary for the purpose of saving life or property. The burden of proving the necessity shall rest on the person claiming a defense.

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

3. Any proclamation promulgated by the Governor under authority of this subsection shall be effective immediately upon the Governor's signed approval of the emergency proclamation and shall supersede any resolution passed by a board of county commissioners pursuant to subsection B of this section. Notice of the proclamation shall occur through posting on the Oklahoma Department

of Agriculture, Food, and Forestry's website and informing local news media. Evidence of publication or posting as herein provided shall be maintained by the Forestry Division.

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

5. Any person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars ($1,000.00), by imprisonment for not more than one (1) year, or both.

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

a. severe, extreme, or exceptional drought conditions exist as determined by the National Oceanic and Atmospheric Administration (NOAA) pursuant to its criteria,

b. no more than one-half (1/2) inch of precipitation is forecast for the next three (3) days, and

c. either of the following:

(1) fire occurrence is significantly greater than normal for the season and/or initial attack on a significant number of wildland fires has been unsuccessful due to extreme fire behavior, or

(2) where data is available, more than twenty percent (20%) of the wildfires in the county have been caused by escaped debris or controlled burning.

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

3. A board of county commissioners shall have the documented concurrence of a majority of the chiefs, or their designees, of the municipal and certified rural fire departments located in the county that a period of extreme fire danger exists prior to passage of a resolution declaring a period of extreme fire danger in the county. The resolution shall be effective for a period not to exceed thirty (30) days from the date of passage by the board of county commissioners, unless the burn ban is removed earlier by the same method by which it was approved. If extreme fire danger conditions persist, subsequent resolutions may be passed by the board of county commissioners in the same manner as provided in this paragraph. The board of county commissioners, in the resolution, may grant

exceptions to the fire prohibition based on appropriate precautionary measures.

4. Any resolution passed by a board of county commissioners that declares a period of extreme fire danger shall include a provision to allow agricultural producers to burn cropland, range, or pastureland as part of their management operations so long as the agricultural producers have complied with the following procedures:

a. submission of a written application to burn to the board of county commissioners,

b. receipt of approval, in writing, by the local fire department with suppression responsibility for the area to be burned,

c. construction of adequate fire lines and assurance of adequate personnel and equipment on hand to control the fire, and

d. compliance with the notification procedures outlines in Section 16-28.2 of Title 2 of the Oklahoma Statutes.

5. Any resolution passed by a board of county commissioners under authority of this subsection shall be effective immediately upon passage of the resolution. Notice of the resolution shall be submitted to the Forestry Division of the Oklahoma Department of Agriculture, Food, and Forestry, all local news media, local law enforcement officials, and the state headquarters of the Department

of Public Safety, the Oklahoma Tourism and Recreation Department and the Department of Wildlife Conservation on the day of passage of the resolution. Evidence of publication or posting as provided in this paragraph shall be maintained by the county.

~~5.~~ 6. The provisions of this subsection may be enforced by any law enforcement officer of this state.

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

~~7.~~ 8. The selling of fireworks shall not be considered an act in violation of this subsection.

SECTION 2. This act shall become effective November 1, 2015."

Passed the Senate the 20th day of April, 2015.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2015.

_____
Presiding Officer of the House of Representatives

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An Act relating to burn bans; amending 2 O.S. 2011, Section 16-26, as amended by Section 1, Chapter 299, O.S.L. 2013 (2 O.S. Supp. 2014, Section 16-26), which relates to emergency drought conditions; exempting agricultural producers from certain burning prohibitions under certain circumstances; and providing an effective date.

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 16-26, as amended by Section 1, Chapter 299, O.S.L. 2013 (2 O.S. Supp. 2014, 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 wildlands, or to build a campfire or bonfire, or to burn trash or other material that may cause a forest, grass, range, crop or other wildlands 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 necessary for the purpose of saving life or property. The burden of proving the necessity shall rest on the person claiming a defense.

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

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

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

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

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

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

a. severe, extreme, or exceptional drought conditions exist as determined by the National Oceanic and Atmospheric Administration (NOAA) pursuant to its criteria,

b. no more than one-half (1/2) inch of precipitation is forecast for the next three (3) days, and

c. either of the following:

(1) fire occurrence is significantly greater than normal for the season and/or initial attack on a significant number of wildland fires has been unsuccessful due to extreme fire behavior, or

(2) where data is available, more than twenty percent (20%) of the wildfires in the county have been caused by escaped debris or controlled burning.

2. An agricultural producer who burns cropland, rangeland, forests or pastureland as part of management operations shall be exempted from a ban resulting from a resolution passed by the board of county commissioners pursuant to this subsection provided that the agricultural producer complies with the following:

a. conducts prescribed burns in accordance with the "Notification Requirements and Considerations for Safe and Lawful Prescribed Burning in Oklahoma" issued by the Forestry Division of the Oklahoma Department of Agriculture, Food, and Forestry,

b. turns in a copy of a written burn or fire plan to the local fire department,

c. has a copy of the written burn or fire plan on site when conducting prescribed burn,

d. notifies county sheriff prior to conducting burn,

e. the prescribed burn does not include campfires, household trash, debris or pile burning, and

f. has the local fire department on site when conducting the prescribed burn;

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

~~3.~~ 4. A board of county commissioners shall have the documented concurrence of a majority of the chiefs, or their designees, of the municipal and certified rural fire departments located in the county that a period of extreme fire danger exists prior to passage of a resolution declaring a period of extreme fire danger in the county. The resolution shall be effective for a period not to exceed thirty (30) days from the date of passage by the board of county commissioners, unless the burn ban is removed earlier by the same method by which it was approved. If extreme fire danger conditions persist, subsequent resolutions may be passed by the board of county commissioners in the same manner as provided in this paragraph. The board of county commissioners, in the resolution, may grant exceptions to the fire prohibition based on appropriate precautionary measures.

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

~~5.~~ 6. The provisions of this subsection may be enforced by any law enforcement officer of this state.

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

~~7.~~ 8. The selling of fireworks shall not be considered an act in violation of this subsection.

SECTION 2. This act shall become effective November 1, 2015.

Passed the House of Representatives the 5th day of March, 2015.

_____
Presiding Officer of the House
of Representatives

Passed the Senate the ___ day of _____, 2015.

_____
Presiding Officer of the Senate