

1 ENGROSSED SENATE AMENDMENT
TO
2 ENGROSSED HOUSE
BILL NO. 1462

By: Wallace of the House
and
Fields of the Senate

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

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

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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:

1 Section 16-26. A. 1. It is unlawful for any person to set
2 fire to any forest, grass, range, crop, or other wildlands, or to
3 build a campfire or bonfire, or to burn trash or other material that
4 may cause a forest, grass, range, crop or other wildlands fire in
5 any county, counties or area within a county where, because of
6 emergency drought conditions, there is gubernatorially proclaimed
7 extraordinary danger from fire, unless the setting of any backfire
8 during the drought emergency is necessary to afford protection as
9 determined by a representative of the Division of Forestry, or
10 unless it can be established that the setting of the backfire was
11 necessary for the purpose of saving life or property. The burden of
12 proving the necessity shall rest on the person claiming a defense.

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

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

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

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

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

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

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

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

24 c. either of the following:

- 1 (1) fire occurrence is significantly greater than
2 normal for the season and/or initial attack on a
3 significant number of wildland fires has been
4 unsuccessful due to extreme fire behavior, or
5 (2) where data is available, more than twenty percent
6 (20%) of the wildfires in the county have been
7 caused by escaped debris or controlled burning.

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

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

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

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

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

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

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

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

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

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

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

12 ~~7.~~ 8. The selling of fireworks shall not be considered an act
13 in violation of this subsection.

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

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

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17 _____
18 Presiding Officer of the Senate

19 Passed the House of Representatives the ____ day of _____,
20 2015.

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22 _____
23 Presiding Officer of the House
24 of Representatives