

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 1462

By: Wallace

6
7 COMMITTEE SUBSTITUTE

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

19 Section 16-26. A. 1. It is unlawful for any person to set
20 fire to any forest, grass, range, crop, or other wildlands, or to
21 build a campfire or bonfire, or to burn trash or other material that
22 may cause a forest, grass, range, crop or other wildlands fire in
23 any county, counties or area within a county where, because of
24 emergency drought conditions, there is gubernatorially proclaimed
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. severe, extreme, or exceptional drought conditions
13 exist as determined by the National Oceanic and
14 Atmospheric Administration (NOAA) pursuant to its
15 criteria,

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

18 c. either of the following:

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

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

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

- 9 a. conducts prescribed burns in accordance with the
10 "Notification Requirements and Considerations for Safe
11 and Lawful Prescribed Burning in Oklahoma" issued by
12 the Forestry Division of the Oklahoma Department of
13 Agriculture, Food, and Forestry,
- 14 b. turns in a copy of a written burn or fire plan to the
15 local fire department,
- 16 c. has a copy of the written burn or fire plan on site
17 when conducting prescribed burn,
- 18 d. notifies county sheriff prior to conducting burn,
- 19 e. the prescribed burn does not include campfires,
20 household trash, debris or pile burning, and
- 21 f. has the local fire department on site when conducting
22 the prescribed burn;

23 3. A majority of the board of county commissioners may call an
24 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.~~ 4. 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 thirty
9 (30) 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.~~ 5. 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
24 the Department of Wildlife Conservation on the day of passage of the

1 resolution. Evidence of publication or posting as provided in this
2 paragraph shall be maintained by the county.

3 ~~5.~~ 6. The provisions of this subsection may be enforced by any
4 law enforcement officer of this state.

5 ~~6.~~ 7. Any person convicted of violating the provisions of this
6 subsection shall be guilty of a misdemeanor and shall be subject to
7 a fine of not more than Five Hundred Dollars (\$500.00), to
8 imprisonment for not more than one (1) year, or to both such fine
9 and imprisonment.

10 ~~7.~~ 8. The selling of fireworks shall not be considered an act
11 in violation of this subsection.

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

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