

1 ENGROSSED HOUSE
2 BILL NO. 2646

By: Wallace and Park of the
House

3 and

4 Barrington of the Senate

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6
7 An Act relating to agriculture; amending 2 O.S. 2011,
8 Section 16-26, as last amended by Section 1, Chapter
9 256, O.S.L. 2015 (2 O.S. Supp. 2015, Section 16-26),
10 which relates to emergency drought conditions;
11 modifying maximum time that certain resolution may
12 remain in effect; exempting agricultural producers
13 from certain resolutions declaring a period of
14 extreme fire danger; modifying requirements for
15 exemption; requiring written plan be submitted;
16 specifying contents; prohibiting certain burning
17 activities in certain burn plans; providing that
18 certain exemptions shall not supersede certain
19 proclamations, authority or liability; and providing
20 an effective date.

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

24 SECTION 1. AMENDATORY 2 O.S. 2011, Section 16-26, as
last amended by Section 1, Chapter 256, O.S.L. 2015 (2 O.S. Supp.
2015, 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

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

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

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

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

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

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

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

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

21 c. either of the following:

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

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

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

1 4. ~~Any resolution passed by a board of county commissioners~~
2 ~~that declares a period of extreme fire danger shall include a~~
3 ~~provision to allow agricultural producers to burn cropland, range,~~
4 ~~or pastureland as part of their management operations~~ Agricultural
5 producers burning cropland, rangeland, forests or pastures as a
6 preferred method of managing their property shall not be required to
7 abide by any resolution passed by a board of county commissioners
8 that declares a period of extreme fire danger so long as the
9 agricultural producers ~~have complied with the following procedures:~~

10 a. ~~submission of a written application to burn to the~~
11 ~~board of county commissioners~~ submit a written
12 prescribed burn plan to the local fire department and,
13 if within a protection area, the local office or local
14 representative of the Forestry Division of the
15 Oklahoma Department of Agriculture, Food, and Forestry
16 nearest the land to be burned that shall include the
17 following information:

- 18 (1) the name and telephone number of the agricultural
19 producer conducting the burn,
20 (2) the address and legal description of the area to
21 be burned,
22 (3) the objective and purpose of the burn,
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1 (4) a list of fire departments and sheriff's offices
2 that are required to be notified pursuant to
3 subparagraph c of this paragraph,

4 (5) a list of adjoining landowners required to be
5 notified pursuant to Section 16-28.2 of this
6 title,

7 (6) a description of any firebreaks used to define
8 the boundary of the prescribed burn,

9 (7) a statement declaring that the burn shall not be
10 conducted during weather conditions with highly
11 variable winds or gusts greater than twenty (20)
12 miles per hour, relative humidity below twenty
13 percent (20%), an air temperature above one
14 hundred degrees (100°) Fahrenheit or a frontal
15 passage or wind shift is expected within twelve
16 (12) hours,

17 (8) a description of any smoke-management
18 considerations, and

19 (9) an ignition plan for the burn,

20 b. ~~receipt of approval, in writing, by the local fire~~
21 ~~department with suppression responsibility for the~~
22 ~~area to be burned~~ keep a copy of the written
23 prescribed burn plan provided for in subparagraph a of
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1 this paragraph on site when conducting the prescribed
2 burn,

3 c. ~~construction of adequate fire lines and assurance of~~
4 ~~adequate personnel and equipment on hand to control~~
5 ~~the fire~~ notify the county sheriff and the dispatch
6 center of the local fire department prior to
7 conducting the prescribed burn, and

8 d. ~~compliance~~ comply with the notification procedures
9 outlined in Section 16-28.2 of ~~Title 2 of the Oklahoma~~
10 ~~Statutes~~ this title.

11 5. The prescribed burn plan provided for in paragraph 4 of this
12 subsection shall not include campfires, household trash, debris or
13 pile burning.

14 6. Nothing in paragraph 4 of this subsection shall supersede
15 requirements set by a proclamation promulgated by the Governor under
16 authority of this section, interfere with the authority of the
17 Oklahoma Department of Agriculture, Food, and Forestry to enforce
18 burning laws or change the burner's liability as prescribed by law.

19 7. 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 ~~6.~~ 8. The provisions of this subsection may be enforced by any
6 law enforcement officer of this state.

7 ~~7.~~ 9. 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 ~~8.~~ 10. 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, 2016.

15 Passed the House of Representatives the 10th day of March, 2016.

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Presiding Officer of the House
of Representatives

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Passed the Senate the ___ day of _____, 2016.

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Presiding Officer of the Senate

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