

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1020

By: Barrington

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6  
7 AS INTRODUCED

8 An Act relating to emergency drought conditions;  
9 amending 2 O.S. 2011, Section 16-26, as last amended  
10 by Section 1, Chapter 256, O.S.L 2015 (2 O.S. Supp.  
11 2015, Section 16-26), which relates to burning  
12 prohibitions; modifying agricultural producers  
13 exemption to burn ban; providing an effective date.

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

15 SECTION 1. AMENDATORY 2 O.S. 2011, Section 16-26, as  
16 last amended by Section 1, Chapter 256, O.S.L. 2015 (2 O.S. Supp.  
17 2015, Section 16-26), is 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. 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  
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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. A majority of the board of county commissioners may call an  
5 emergency meeting at any time to pass or revoke a resolution  
6 declaring a period of extreme fire danger in accordance with this  
7 section.

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

22 4. ~~Any resolution passed by a board of county commissioners~~  
23 ~~that declares a period of extreme fire danger shall include a~~  
24 ~~provision to allow agricultural producers to burn cropland, range,~~

1 ~~or pastureland as part of their management operations~~ Agricultural  
2 producers burning cropland, rangeland, forests or pastures as a  
3 preferred method of managing their property shall not be required to  
4 abide by a burn ban enacted pursuant to this subsection, so long as  
5 the agricultural producers have complied with the following  
6 procedures:

- 7 a. ~~submission of a written application to burn to the~~  
8 ~~board of county commissioners~~ compliance with Section  
9 16-28.2 of this title,
- 10 b. ~~receipt of approval, in writing, by the local fire~~  
11 ~~department with suppression responsibility for the~~  
12 ~~area to be burned~~ submission of a copy of the written  
13 prescribed burn plan to the local fire department  
14 and/or if within a protection area, the local office  
15 or local representative of the Forestry Division  
16 nearest the land to be burned,
- 17 c. ~~construction of adequate fire lines and assurance of~~  
18 ~~adequate personnel and equipment on hand to control~~  
19 ~~the fire~~ maintenance of a copy of the written  
20 prescribed burn plan on site when conducting the  
21 prescribed burn, and
- 22 d. ~~compliance with the notification procedures outlined~~  
23 ~~in Section 16-28.2 of Title 2 of the Oklahoma Statutes~~
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1                   notification of the county sheriff prior to conducting  
2                   the prescribed burn.

3           5. The prescribed burn plan shall not include campfires,  
4 household trash, debris or pile burning. Nothing in this section  
5 shall supersede requirements set by a Governor's Burn Ban, interfere  
6 with the authority of the Oklahoma Department of Agriculture, Food  
7 and Forestry to enforce burning laws or change the burner's  
8 liability as prescribed by law.

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

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

21           ~~7.~~ 8. Any person convicted of violating the provisions of this  
22 subsection shall be guilty of a misdemeanor and shall be subject to  
23 a fine of not more than Five Hundred Dollars (\$500.00), to  
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1 imprisonment for not more than one (1) year, or to both such fine  
2 and imprisonment.

3 ~~8.~~ 9. The selling of fireworks shall not be considered an act  
4 in violation of this subsection.

5 SECTION 2. This act shall become effective November 1, 2016.

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