

# An Act

ENROLLED HOUSE  
BILL NO. 3192

By: Newton of the House

and

Green of the Senate

An Act relating to forestry administration and enforcement; amending 2 O.S. 2021, Sections 16-2, 16-4, and 16-8, which relate to the Oklahoma Forestry Code; defining terms; modifying definitions; modifying duties of Forestry Division of Oklahoma Department of Agriculture, Food, and Forestry; modifying terms; prohibiting liability for certain activities; amending 2 O.S. 2021, Sections 16-21 and 16-28.2, which relate to forest fire prevention; modifying term; modifying prescribed notification area plan form; updating statutory references; updating statutory language; and providing an effective date.

SUBJECT: Forestry administration and enforcement

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

SECTION 1. AMENDATORY 2 O.S. 2021, Section 16-2, is amended to read as follows:

Section 16-2. As used in the Oklahoma Forestry Code:

1. "Control line" means a constructed or natural barrier and treated fire edge used to control a fire;

2. "Director" means the Director of Forestry of the Oklahoma Department of Agriculture, Food, and Forestry;

~~2.~~ 3. "Division" means the Forestry Division of the Oklahoma Department of Agriculture, Food, and Forestry;

~~3.~~ 4. "Established property line" means any boundary line which has been:

- a. recognized by adjoining land owners as a boundary and uncontested for at least fifteen (15) years including, but not limited to, fence lines, roads, and natural features,
- b. established by a registered land surveyor, or
- c. uncontested for at least fifteen (15) years;

5. "Fire line" means the actively burning or burned perimeter of an uncontrolled wildfire of any size that necessitates the use of direct or indirect tactical suppression actions to control the wildfire;

~~4.~~ 6. "Forest rangers" means all employees of the Forestry Division who have responsibilities in forest and natural resource protection, including laborers, mechanics, and other employees who assist in forest and natural resource protection;

~~5.~~ 7. "Forest" means a tract of land that is at least ten percent (10%) stocked by trees of any size, whether of commercial or noncommercial species, or formerly having tree cover and not currently developed for ~~nonforest~~ non-forest use, including woodlands, woodlots, windbreaks, and shelterbelts;

8. "Hazardous duty" means actions performed on or near the fire line required to fight and control wildfires in order to protect lives, property, forests, and natural resources as well as functions associated with wildland hazardous fuels reduction work to mitigate and reduce wildfire threat to lives, property, forests, and natural resources;

~~6.~~ 9. "Logging or timber harvesting operations" means the cutting or harvesting of and removal of timber from a site, leaving the root mass intact;

~~7.~~ 10. "Owner" means the possessor of a fee interest, a tenant, lessee, occupant, or other person in lawful control of land;

~~8.~~ 11. "Prescribed burning" means the controlled application of fire by the owner or designated agent of croplands, rangelands, or forestlands ~~of fire~~ to naturally occurring vegetative fuel under specified environmental conditions and following appropriate precautionary measures, ~~which causes~~ intended to keep the fire ~~to be~~ confined to a predetermined area and accomplish land management objectives;

~~9.~~ 12. "Timber" means live and dead trees and the profit in any live and dead trees including, but not limited to, bark, foliage, wood, vines, firewood, crossties, and shrubbery;

~~10.~~ 13. "Timber owner" means any person who owns the right to cut or harvest timber at the time the timber is to be cut or harvested, or who legally owns the severed timber;

~~11.~~ 14. "Wildfires" means any fire which is not controlled on forests, grasslands, fields, or croplands; ~~and~~

~~12.~~ ~~"Wild lands"~~ 15. "Wildland" means any undeveloped lands ~~land~~ regardless of ~~kind of~~ vegetative plant cover including ~~forests, prairies, marshes, and swamps~~ forest, prairie, marsh, and swamp; and

16. "Wildland firefighter" means any forest ranger employed by the Forestry Division whose duty to fight wildfires includes incident management, fire suppression, and hazardous wildland fuel mitigation.

SECTION 2. AMENDATORY 2 O.S. 2021, Section 16-4, is amended to read as follows:

Section 16-4. It shall be the duty of the State Board of Agriculture under terms the Board determines shall best serve the public interest to assist and cooperate with federal and state departments, educational institutions, counties, towns, corporations, or individuals; to gather and disseminate information about forests, their care and management; to prevent and extinguish wildfires; to enforce all laws pertaining to forests and ~~woodlands~~ wildlands; and to monitor the health, inventory, and condition of the state's forest resources.

SECTION 3. AMENDATORY 2 O.S. 2021, Section 16-8, is amended to read as follows:

Section 16-8. A. The Forestry Division of the Oklahoma Department of Agriculture, Food, and Forestry, in connection with the enforcement of the Oklahoma Forestry Code, shall have the following powers, authority, and duties:

1. To enforce the provisions of this code and other forest and forest protection laws of this state;

2. To prevent, mitigate, detect, ~~extinguish~~ suppress, and investigate wildfires in this state;

3. To provide ~~wildfire fighting~~ wildland firefighting crews, who shall be under the control and direction of forest rangers and other designated agents of the Division;

4. To appoint district foresters, ~~assistant district foresters~~, investigators, rangers, and other employees;

5. To use the resources of the Division on state-owned parks and other state-administered land to prevent and suppress ~~fires~~ wildfires, to mitigate hazardous wildland fuels, and to establish ~~fire fighting~~ wildland firefighting crews, who shall be authorized to suppress ~~fires~~ wildfires on state land;

6. To be reimbursed on an actual cost basis for all services provided to state parks and other land administered by the State of Oklahoma;

7. To investigate cases of forest timber theft;

8. To make available for sale surplus state vehicles directly to rural fire departments or municipal fire departments, in cities or towns under ten thousand (10,000) population. State vehicles may be offered for sale only after approval is given in writing by the Office of Management and Enterprise Services and an evaluation is made of each vehicle and a price set by the Office of Management and Enterprise Services. The Forestry Division may only receive the amount authorized by the Office of Management and Enterprise Services for the sale of the vehicle;

9. To purchase equipment from the Rural Fire Defense Equipment Revolving Fund's inventory, when advantageous to the state, and to reimburse the Revolving Fund; and

10. To plan and conduct prescribed burning at the request and expense of landowners on public or private land for the purpose of controlling ~~Eastern Redcedar and other~~ invasive or exotic species, for hazardous fuel reduction, wildlife habitat manipulation, ecosystem restoration, or achieving silvicultural objectives. Forestry Division employees shall be protected under The Governmental Tort Claims Act and shall not be personally liable beyond the limits established therein for activities pursuant to this paragraph unless gross negligence is established in a competent court of law.

B. Forest rangers, and the ~~fire fighting~~ firefighting crews under their control and direction, may enter upon any land for the purpose of preventing and suppressing wildfires and to enforce the provisions of the Oklahoma Forestry Code and other wildfire and forest protection laws of this state.

C. Forest rangers, employees of the Division, and all persons under contract or agreement with the Division to assist in ~~fire fighting~~ firefighting operations, as well as persons called upon by forest rangers or other authorized employees of the Division to assist in ~~fire fighting~~ firefighting under the direction or supervision of employees of the Division, may, in the performance of their duties, set backfires, dig trenches, ~~cut firelines~~ construct control lines, and carry on all customary activities in the fighting of wildfires without incurring liability to any person.

D. Under the direction of forest rangers and upon written ~~receipt of permission~~ consent of the landowner, county officers and employees may, in the performance of their duties and without incurring liability to any person, ~~cut firelines~~ construct control lines and carry out all customary activities for conducting prescribed burns to mitigate hazardous wildland fuels ~~for the prevention of~~ to prevent wildfires on private lands.

E. Upon written consent from a landowner or designated agent, forest rangers, in the performance of their duties and without incurring liability to any person, may construct control lines, carry out all customary activities for conducting prescribed burns, and utilize mechanized equipment to reduce hazardous wildland fuels in order to mitigate or reduce the effects of wildfires on lives, property, forests, and natural resources on private and public lands in this state.

1. The Director of the Forestry Division may appoint, subject to the approval of the State Board of Agriculture, special officers who shall have the power and authority to arrest. The special officers shall have power and authority throughout the state, under the direction and control of the Division, to enforce the criminal provisions contained in the Oklahoma Forestry Code, other laws relating to forests and wildfires and the Oklahoma Agricultural Code.

2. The special officers shall have power and authority to make arrests with or without warrants for violations of the criminal provisions of the Oklahoma Forestry Code, other laws relating to forests and wildfires and the Oklahoma Agricultural Code to the same extent and under the same limitations and duties as peace officers under the provisions of Chapter 3 of Title 22, ~~Chapter 3~~ of the Oklahoma Statutes.

3. In connection with the enforcement of the criminal provisions, the special officers and other state investigators or law enforcement officers may go upon all premises when necessary for the enforcement of laws. All special officers shall be ex officio forest rangers and shall be under the control and direction of the Division; except, the Director may at any time, for cause, remove any powers and authority of arrest conferred. Special officers shall have the same right and authority to carry arms as the sheriffs of this state. The compensation of special officers shall be fixed and paid by the Division from its funds.

SECTION 4. AMENDATORY 2 O.S. 2021, Section 16-21, is amended to read as follows:

Section 16-21. The Division shall organize forest protection areas to prevent, detect, and suppress wildfires most effectively, and may employ forest rangers to have charge of its activities in each area; may subdivide each area into patrol areas; may construct lookout towers, roads, bridges, ~~firelines~~ control lines, office facilities, and communication facilities; may purchase tools for firefighting as well as other necessary supplies and equipment; and may carry on all activities necessary to protect the area effectively from fires.

SECTION 5. AMENDATORY 2 O.S. 2021, Section 16-28.2, is amended to read as follows:

Section 16-28.2 A. 1. The provisions of this section apply to a prescribed burn.

2. Any owner wishing to set fire to land in order to conduct a prescribed burn shall comply with the provisions of this section.

B. 1. Within sixty (60) days prior to conducting a prescribed burn, the owner of the land to be burned shall orally or in writing notify all landowners whose lands adjoin the owner's land to be burned.

2. If any landowner is burning on a large, consolidated tract of land in which there are multiple adjacent owners, only those owners with adjoining land within one (1) mile of the proposed burn area must be notified.

3. The owner shall include in the written notice or shall orally notify the adjoining landowners of the proposed date and location of the burn and a telephone number where the owner can be reached for information regarding the prescribed burn.

C. In addition to notification of adjoining property owners pursuant to subsection B of this section, the owner of the land to be burned shall complete the prescribed burn notification plan specified in subsection D of this section and shall submit such plan to the rural fire department nearest the land to be burned. If the land to be burned is in a protection area, the owner shall also submit a copy of the notification plan to the local office or local representative of the Forestry Division nearest to the land to be burned.

D. Any person wishing to conduct a prescribed burn shall complete ~~this~~ a Prescribed Burn Notification Plan form, distributed prescribed by the Oklahoma Department of Agriculture, Food, and Forestry, which shall be in substantially the following form:.

~~PREScribed BURN NOTIFICATION PLAN~~

Name \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ County \_\_\_\_\_

City, State, Zip \_\_\_\_\_

Ranch name, if any \_\_\_\_\_

Area to be burned \_\_\_\_\_

Approximate acres to be burned \_\_\_\_\_

Written distance description of location \_\_\_\_\_

\_\_\_\_\_

Projected time frame \_\_\_\_\_

Date of previous burn \_\_\_\_\_

Objectives to be accomplished through the prescribed burn:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Contact information:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Rural Fire Department:

Name: \_\_\_\_\_ Location: \_\_\_\_\_ Phone No.: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Forestry District Office (for protection areas) \_\_\_\_\_

\_\_\_\_\_

Adjoining landowners:

\_\_\_\_\_



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The original copy of the form ~~must~~ shall be filed with the rural fire department nearest to the land to be burned. If conducting a prescribed burn within a protection area, a copy of the prescribed burn notification plan ~~must~~ shall be filed with the local office or local representative of the Forestry Division nearest to the land to be burned. A copy of the plan shall be retained by the owner of the land to be burned.

E. 1. Whether the land is located within or outside a protection area, the owner of the land to be burned shall, within forty-eight (48) hours of conducting a prescribed burn, notify the rural fire department receiving a copy of the prescribed burn notification plan that the prescribed burn will be conducted.

2. Within a protection area, the owner of the land to be burned shall also, within the time period required by Section 7 16-28.1 of this ~~act~~ title, notify the local office or local representative of the Forestry Division receiving a copy of the prescribed burn notification plan.

F. A prescribed burn conducted pursuant to provisions of this section shall:

1. Be considered in the public interest and shall not constitute a public or private nuisance; and

2. Be considered a property right of the property owner if vegetative fuels are used.

G. 1. Any owner conducting a prescribed burn who is found by a court of law to have caused damages or injury as a result of accident or by ordinary negligence shall only be civilly liable for actual damages resulting from the prescribed burn.

2. Any owner conducting a prescribed burn who is found by a court of law to have committed gross negligence in conducting the prescribed burn may be found to be both civilly liable for the amount of damage done by the fire, and criminally liable pursuant to paragraph 3 of this subsection.

3. Any owner setting or causing to be set on fire land as authorized by this section, and as a result of gross negligence permitting the fire to spread beyond the control of the owner or beyond the bounds of the owner's land, shall be deemed guilty of a misdemeanor, and upon conviction thereof, be fined a sum not more than Five Hundred Dollars (\$500.00), or imprisonment in the county jail for a period not more than six (6) months.

SECTION 6. This act shall become effective November 1, 2024.

Passed the House of Representatives the 19th day of February,  
2024.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

Passed the Senate the 23rd day of April, 2024.

\_\_\_\_\_  
Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
By: \_\_\_\_\_