

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 59th Legislature (2023)

4 HOUSE BILL 1458

 By: Patzkowsky

7 AS INTRODUCED

8 An Act relating to agriculture; amending 2 O.S. 2021,
9 Section 16-26, which relates to emergency drought
10 conditions and burning prohibitions; changing the
11 required conditions for an extreme fire danger;
12 changing requirements for county commissioners to
13 declare a burn ban; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 2 O.S. 2021, Section 16-26, is
15 amended to read as follows:

16 Section 16-26. A. 1. It is unlawful for any person to set
17 fire to any forest, grass, range, crop, or other wildlands, or to
18 build a campfire or bonfire, or to burn trash or other material that
19 may cause a forest, grass, range, crop or other wildlands fire in
20 any county, counties or area within a county where, because of
21 emergency drought conditions, there is gubernatorially proclaimed
22 extraordinary danger from fire, unless the setting of any backfire
23 during the drought emergency is necessary to afford protection as
24 determined by a representative of the Division of Forestry, or

1 unless it can be established that the setting of the backfire was
2 necessary for the purpose of saving life or property. The burden of
3 proving the necessity shall rest on the person claiming a defense.

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

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

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

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

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

10 a. ~~all~~ three out of four of the following conditions are
11 present:

12 (1) severe, extreme, or exceptional drought
13 conditions exist as determined by the National
14 Oceanic and Atmospheric Administration (NOAA)
15 pursuant to its criteria,

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

18 (3) ~~either of the following:~~

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

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~~(b) where data is available, more than twenty percent (20%) of the wildfires in the county have been caused by escaped debris or controlled burning, or a portion of the county has a Keetch-Bryam Drought Index (KBDI) rating of 600 or higher, and~~

~~b.~~

(4) temperatures for any day over the next three (3) days are forecasted at or over one hundred (100) degrees Fahrenheit.

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

3. A board of county commissioners ~~shall have~~ may pass a resolution declaring a period of extreme fire danger in the county either with the documented concurrence of a majority of the chiefs, or their designees, of the municipal and certified rural fire departments located in the county that a period of extreme fire danger exists ~~prior to passage of a resolution declaring a period of extreme fire danger in the county~~ or when the Keetch-Bryam Drought Index (KBDI) is 600 or higher, which indicates extreme fire danger. The resolution shall be effective for a period not to exceed fourteen (14) days from the date of passage by the board of county

1 commissioners, unless the burn ban is removed earlier by the same
2 method by which it was approved. If extreme fire danger conditions
3 persist, subsequent resolutions may be passed by the board of county
4 commissioners ~~in the same manner as provided in this paragraph~~. The
5 board of county commissioners, in the resolution, may grant
6 exceptions to the fire prohibition based on appropriate
7 precautionary measures.

8 4. Agricultural producers burning cropland, rangeland, forests
9 or pastures as a preferred method of managing their property shall
10 be exempt from any resolution passed by a board of county
11 commissioners that declares a period of extreme fire danger so long
12 as the agricultural producers have complied with the following
13 procedures:

14 a. submit a written prescribed burn plan to the local
15 fire department and, if within a protection area, the
16 local office or local representative of the Forestry
17 Division of the Oklahoma Department of Agriculture,
18 Food, and Forestry nearest the land to be burned that
19 shall include the following information:

- 20 (1) the name and telephone number of the agricultural
21 producer conducting the burn,
22 (2) the address and legal description of the area to
23 be burned,
24 (3) the objective and purpose of the burn,

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 of prescribed weather conditions,

10 (8) a description of any smoke-management
11 considerations, and

12 (9) an ignition plan for the burn,

13 b. keep a copy of the written prescribed burn plan
14 provided for in subparagraph a of this paragraph on
15 site when conducting the prescribed burn,

16 c. notify the county sheriff and the dispatch center of
17 the local fire department prior to conducting the
18 prescribed burn, and

19 d. comply with the notification procedures outlined in
20 Section 16-28.2 of this title.

21 5. The prescribed burn plan provided for in paragraph 4 of this
22 subsection shall be deemed approved seventy-two (72) hours after
23 submission to the local fire department; provided, that the local
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1 fire department may amend the submitted burn plan within seventy-two
2 (72) hours after submission.

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

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

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

21 9. The provisions of this subsection may be enforced by any law
22 enforcement officer of this state.

23 10. Any person convicted of violating the provisions of this
24 subsection shall be guilty of a misdemeanor and shall be subject to

1 a fine of not more than Five Hundred Dollars (\$500.00), to
2 imprisonment for not more than one (1) year, or to both such fine
3 and imprisonment.

4 11. The selling of fireworks shall not be considered an act in
5 violation of this subsection.

6 SECTION 2. It being immediately necessary for the preservation
7 of the public peace, health or safety, an emergency is hereby
8 declared to exist, by reason whereof this act shall take effect and
9 be in full force from and after its passage and approval.

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11 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE, dated 02/14/2023 - DO
12 PASS.

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