

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3192

By: Newton

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to forestry administration and
10 enforcement; amending 2 O.S. 2021, Sections 16-2, 16-
11 4, and 16-8, which relate to the Oklahoma Forestry
12 Code; defining terms; modifying definitions;
13 modifying duties of Forestry Division of Oklahoma
14 Department of Agriculture, Food, and Forestry;
15 modifying terms; prohibiting liability for certain
activities; amending 2 O.S. 2021, Sections 16-21 and
16 16-28.2, which relate to forest fire prevention;
17 modifying term; modifying prescribed notification
area plan form; updating statutory references;
updating statutory language; and providing an
effective date.

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

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

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

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

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

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

5 ~~3.~~ 4. "Established property line" means any boundary line which
6 has been:

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

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

17 ~~4.~~ 6. "Forest rangers" means all employees of the Forestry
18 Division who have responsibilities in forest and natural resource
19 protection, including laborers, mechanics, and other employees who
20 assist in forest and natural resource protection;

21 ~~5.~~ 7. "Forest" means a tract of land that is at least ten
22 percent (10%) stocked by trees of any size, whether of commercial or
23 noncommercial species, or formerly having tree cover and not
24

1 currently developed for ~~nonforest~~ non-forest use, including
2 woodlands, woodlots, windbreaks, and shelterbelts;

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

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

12 ~~7.~~ 10. "Owner" means the possessor of a fee interest, a tenant,
13 lessee, occupant, or other person in lawful control of land;

14 ~~8.~~ 11. "Prescribed burning" means the controlled application of
15 fire by the owner or designated agent of croplands, rangelands, or
16 forestlands ~~of fire~~ to naturally occurring vegetative fuel under
17 specified environmental conditions and following appropriate
18 precautionary measures, ~~which causes~~ intended to keep the fire ~~to be~~
19 confined to a predetermined area and accomplish land management
20 objectives;

21 ~~9.~~ 12. "Timber" means live and dead trees and the profit in any
22 live and dead trees including, but not limited to, bark, foliage,
23 wood, vines, firewood, crossties, and shrubbery;

1 ~~10.~~ 13. "Timber owner" means any person who owns the right to
2 cut or harvest timber at the time the timber is to be cut or
3 harvested, or who legally owns the severed timber;

4 ~~11.~~ 14. "Wildfires" means any fire which is not controlled on
5 forests, grasslands, fields, or croplands; ~~and~~

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

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

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

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

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

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

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

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

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

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

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

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

24 7. To investigate cases of forest timber theft;

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

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

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

23 B. Forest rangers, and the ~~fire-fighting~~ firefighting crews
24 under their control and direction, may enter upon any land for the

1 purpose of preventing and suppressing wildfires and to enforce the
2 provisions of the Oklahoma Forestry Code and other wildfire and
3 forest protection laws of this state.

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

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

20 E. Upon written consent from a landowner or designated agent,
21 forest rangers in the performance of their duties and without
22 incurring liability to any person, may construct control lines,
23 carry out all customary activities for conducting prescribed burns,
24 and utilize mechanized equipment to reduce hazardous wildland fuels

1 in order to mitigate or reduce the effects of wildfires on lives,
2 property, forests, and natural resources on private and public lands
3 in this state.

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

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

19 3. In connection with the enforcement of the criminal
20 provisions, the special officers and other state investigators or
21 law enforcement officers may go upon all premises when necessary for
22 the enforcement of laws. All special officers shall be ex officio
23 forest rangers and shall be under the control and direction of the
24 Division; except, the Director may at any time, for cause, remove

1 any powers and authority of arrest conferred. Special officers
2 shall have the same right and authority to carry arms as the
3 sheriffs of this state. The compensation of special officers shall
4 be fixed and paid by the Division from its funds.

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

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

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

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

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

22 B. 1. Within sixty (60) days prior to conducting a prescribed
23 burn, the owner of the land to be burned shall orally or in writing
24

1 notify all landowners whose lands adjoin the owner's land to be
2 burned.

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

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

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

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

24 ~~PREScribed BURN NOTIFICATION PLAN~~

1 Name _____ Phone _____
2 Address _____ County _____
3 City, State, Zip _____
4 Ranch name, if any _____
5 Area to be burned _____
6 Approximate acres to be burned _____
7 Written distance description of location _____
8 _____
9 Projected time frame _____
10 Date of previous burn _____
11 Objectives to be accomplished through the prescribed burn:
12 _____
13 _____
14 _____
15 Contact information:
16 _____
17 _____
18 _____
19 Rural Fire Department:
20 Name: _____ Location: _____ Phone No.: _____
21 _____
22 _____
23 Forestry District Office (for protection areas) _____
24 _____

1 ~~Adjoining landowners:~~

2 _____
3 _____
4 _____
5 _____

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

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

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

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

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

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

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

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

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

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

22
23 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE, dated 02/07/2024 - DO
24 PASS, As Amended.