

1 **SENATE FLOOR VERSION**

2 April 8, 2024

3 ENGROSSED HOUSE
4 BILL NO. 3192

By: Newton of the House

and

5 Green of the Senate
6
7

8 An Act relating to forestry administration and
9 enforcement; amending 2 O.S. 2021, Sections 16-2, 16-
10 4, and 16-8, which relate to the Oklahoma Forestry
11 Code; defining terms; modifying definitions;
12 modifying duties of Forestry Division of Oklahoma
13 Department of Agriculture, Food, and Forestry;
14 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.

15
16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

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

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

22 2. "Director" means the Director of Forestry of the Oklahoma
23 Department of Agriculture, Food, and Forestry;
24

1 ~~2.~~ 3. "Division" means the Forestry Division of the Oklahoma
2 Department of Agriculture, Food, and Forestry;

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

5 a. recognized by adjoining land owners as a boundary and
6 uncontested for at least fifteen (15) years including,
7 but not limited to, fence lines, roads, and natural
8 features,

9 b. established by a registered land surveyor, or

10 c. uncontested for at least fifteen (15) years;

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

15 ~~4.~~ 6. "Forest rangers" means all employees of the Forestry
16 Division who have responsibilities in forest and natural resource
17 protection, including laborers, mechanics, and other employees who
18 assist in forest and natural resource protection;

19 ~~5.~~ 7. "Forest" means a tract of land that is at least ten
20 percent (10%) stocked by trees of any size, whether of commercial or
21 noncommercial species, or formerly having tree cover and not
22 currently developed for ~~nonforest~~ non-forest use, including
23 woodlands, woodlots, windbreaks, and shelterbelts;

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

7 ~~6.~~ 9. "Logging or timber harvesting operations" means the
8 cutting or harvesting of and removal of timber from a site, leaving
9 the root mass intact;

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

12 ~~8.~~ 11. "Prescribed burning" means the controlled application of
13 fire by the owner or designated agent of croplands, rangelands, or
14 forestlands ~~of fire~~ to naturally occurring vegetative fuel under
15 specified environmental conditions and following appropriate
16 precautionary measures, ~~which causes~~ intended to keep the fire ~~to be~~
17 confined to a predetermined area and accomplish land management
18 objectives;

19 ~~9.~~ 12. "Timber" means live and dead trees and the profit in any
20 live and dead trees including, but not limited to, bark, foliage,
21 wood, vines, firewood, crossties, and shrubbery;

22 ~~10.~~ 13. "Timber owner" means any person who owns the right to
23 cut or harvest timber at the time the timber is to be cut or
24 harvested, or who legally owns the severed timber;

1 ~~11.~~ 14. "Wildfires" means any fire which is not controlled on
2 forests, grasslands, fields, or croplands; ~~and~~

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

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

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

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

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

23 Section 16-8. A. The Forestry Division of the Oklahoma
24 Department of Agriculture, Food, and Forestry, in connection with

1 the enforcement of the Oklahoma Forestry Code, shall have the
2 following powers, authority, and duties:

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

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

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

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

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

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

20 7. To investigate cases of forest timber theft;

21 8. To make available for sale surplus state vehicles directly
22 to rural fire departments or municipal fire departments, in cities
23 or towns under ten thousand (10,000) population. State vehicles may
24 be offered for sale only after approval is given in writing by the

1 Office of Management and Enterprise Services and an evaluation is
2 made of each vehicle and a price set by the Office of Management and
3 Enterprise Services. The Forestry Division may only receive the
4 amount authorized by the Office of Management and Enterprise
5 Services for the sale of the vehicle;

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

9 10. To plan and conduct prescribed burning at the request and
10 expense of landowners on public or private land for the purpose of
11 controlling ~~Eastern Redcedar and other~~ invasive or exotic species,
12 for hazardous fuel reduction, wildlife habitat manipulation,
13 ecosystem restoration, or achieving silvicultural objectives.

14 Forestry Division employees shall be protected under The
15 Governmental Tort Claims Act and shall not be personally liable
16 beyond the limits established therein for activities pursuant to
17 this paragraph unless gross negligence is established in a competent
18 court of law.

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

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

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

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

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

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

16 3. In connection with the enforcement of the criminal
17 provisions, the special officers and other state investigators or
18 law enforcement officers may go upon all premises when necessary for
19 the enforcement of laws. All special officers shall be ex officio
20 forest rangers and shall be under the control and direction of the
21 Division; except, the Director may at any time, for cause, remove
22 any powers and authority of arrest conferred. Special officers
23 shall have the same right and authority to carry arms as the
24

1 sheriffs of this state. The compensation of special officers shall
2 be fixed and paid by the Division from its funds.

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

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

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

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

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

20 B. 1. Within sixty (60) days prior to conducting a prescribed
21 burn, the owner of the land to be burned shall orally or in writing
22 notify all landowners whose lands adjoin the owner's land to be
23 burned.
24

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

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

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

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

22 ~~PREScribed BURN NOTIFICATION PLAN~~

23 Name _____ Phone _____

24 Address _____ County _____

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

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

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

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

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

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

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

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

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON TOURISM AND WILDLIFE
21 April 8, 2024 - DO PASS

22
23
24