

STATE OF OKLAHOMA

2nd Session of the 60th Legislature (2026)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 3406

By: Kelley and Patzkowsky

COMMITTEE SUBSTITUTE

An Act relating to agriculture; amending 2 O.S. 2021, Section 16-26, as amended by Section 1, Chapter 217, O.S.L. 2024 (2 O.S. Supp. 2025, Section 16-26), which relates to emergency drought conditions and burning prohibitions; changing the required conditions for an extreme fire danger; and declaring an emergency.

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

SECTION 1. AMENDATORY 2 O.S. 2021, Section 16-26, as amended by Section 1, Chapter 217, O.S.L. 2024 (2 O.S. Supp. 2025, Section 16-26), is amended to read as follows:

Section 16-26. A. 1. It is unlawful for any person to set fire to any forest, grass, range, crop, or other wildlands, or to build a campfire or bonfire, or to burn trash or other material that may cause a forest, grass, range, crop or other wildlands fire in any county, counties or area within a county where, because of emergency drought conditions, there is gubernatorially proclaimed 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 Services,
3 or 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 Services shall advise the Governor
7 when the lands described in paragraph 1 of this subsection in any
8 county, counties, or area within a county of this state, because of
9 emergency drought conditions, are in extraordinary danger from fire.
10 The Governor may, by proclamation, declare a drought emergency to
11 exist 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 of Forestry Services.

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.

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. ~~all three~~ either a red flag warning by the National
13 Weather Service (NWS) has been issued, or

14 b. at least three of the following conditions are
15 present:

16 (1) ~~severe, extreme, or exceptional~~ drought
17 conditions exist as determined by the ~~National~~
18 ~~Oceanic and Atmospheric Administration (NOAA)~~
19 U.S. Drought Monitor (USDM) pursuant to its
20 criteria,

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

23 (3) ~~either of the following:~~
24

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

~~b.~~

a portion of the county has a Keetch-Byram Drought Index (KBDI) rating of 600 or higher,

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

(5) the National Weather Service Center's Fire Weather Outlook forecasts fire weather conditions for a portion of the county to be elevated or higher for any of the next three (3) days, or

(6) the local National Weather Service Forecast Office for the county predicts Red Flag Warning criteria could be met at any point over the next seven (7) days.

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

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

19 4. A board of county commissioners shall not be liable for
20 damages incurred as a result of a vote taken, or in absence of a
21 vote taken, pursuant to the provisions of this subsection.

22 5. Agricultural producers burning cropland, rangeland, forests
23 or pastures as a preferred method of managing their property shall
24 be exempt from any resolution passed by a board of county

1 commissioners that declares a period of extreme fire danger so long
2 as the agricultural producers have complied with the following
3 procedures:

4 a. submit a written prescribed burn plan to the local
5 fire department and, if within a protection area, the
6 local office or local representative of the ~~Forestry~~
7 Division of Forestry Services of the Oklahoma
8 Department of Agriculture, Food, and Forestry nearest
9 the land to be burned that shall include the following
10 information:

- 11 (1) the name and telephone number of the agricultural
12 producer conducting the burn,
13 (2) the address and legal description of the area to
14 be burned,
15 (3) the objective and purpose of the burn,
16 (4) a list of fire departments and sheriff's offices
17 that are required to be notified pursuant to
18 subparagraph c of this paragraph,
19 (5) a list of adjoining landowners required to be
20 notified pursuant to Section 16-28.2 of this
21 title,
22 (6) a description of any firebreaks used to define
23 the boundary of the prescribed burn,
24 (7) a statement of prescribed weather conditions,

1 (8) a description of any smoke-management
2 considerations, and

3 (9) an ignition plan for the burn,

4 b. keep a copy of the written prescribed burn plan
5 provided for in subparagraph a of this paragraph on
6 site when conducting the prescribed burn,

7 c. notify the county sheriff and the dispatch center of
8 the local fire department prior to conducting the
9 prescribed burn, and

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

12 ~~5.~~ 6. The prescribed burn plan provided for in paragraph 4 5 of
13 this subsection shall be deemed approved seventy-two (72) hours
14 after submission to the local fire department; provided, that the
15 local fire department may amend the submitted burn plan within
16 seventy-two (72) hours after submission.

17 ~~6.~~ 7. The prescribed burn plan provided for in paragraph 4 5 of
18 this subsection shall not include campfires, household trash, debris
19 or pile burning.

20 ~~7.~~ 8. Nothing in paragraph 4 5 of this subsection shall
21 supersede requirements set by a proclamation promulgated by the
22 Governor under authority of this section, interfere with the
23 authority of the Oklahoma Department of Agriculture, Food, and
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1 Forestry to enforce burning laws or change the burner's liability as
2 prescribed by law.

3 ~~8.~~ 9. Any resolution passed by a board of county commissioners
4 under authority of this subsection shall be effective immediately
5 upon passage of the resolution. Notice of the resolution shall be
6 submitted to the ~~Forestry~~ Division of Forestry Services of the
7 Oklahoma Department of Agriculture, Food, and Forestry, all local
8 news media, local law enforcement officials, and the state
9 headquarters of the Department of Public Safety (DPS), the Oklahoma
10 Tourism and Recreation Department (OTRD), and the Oklahoma
11 Department of Wildlife Conservation (ODWC) on the day of passage of
12 the resolution. Evidence of publication or posting as provided in
13 this paragraph shall be maintained by the county.

14 ~~9.~~ 10. The provisions of this subsection may be enforced by any
15 law enforcement officer of this state.

16 ~~10.~~ 11. Any person convicted of violating the provisions of
17 this subsection shall be guilty of a misdemeanor and shall be
18 subject to a fine of not more than Five Hundred Dollars (\$500.00),
19 to imprisonment for not more than one (1) year, or to both such fine
20 and imprisonment.

21 ~~11.~~ 12. The selling of fireworks shall not be considered an act
22 in violation of this subsection.

23 ~~12.~~ 13. All fire departments and appropriate county officials
24 shall be allowed to place "Burn Ban" signs on agreed-upon signposts

1 controlled by the Oklahoma Department of Transportation and Oklahoma
2 Turnpike Authority (OTA). Fire departments and appropriate county
3 officials shall work with the Oklahoma Department of Transportation
4 to agree upon locations for signage. The Oklahoma Department of
5 Transportation shall develop standards that fire departments and
6 appropriate county officials shall adhere to in placing signage. It
7 shall be the responsibility of the entity placing the sign to post
8 and remove signage in a timely manner. Signage shall not obstruct
9 the view of traffic. Signage costs shall be the responsibility of
10 the fire department or county wishing to install.

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

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