An Act

ENROLLED HOUSE
BILL NO. 2646

By: Wallace, Park and Roberts (Sean) of the House

and

Barrington of the Senate

An Act relating to agriculture; amending 2 O.S. 2011, Section 16-26, as last amended by Section 1, Chapter 256, O.S.L. 2015 (2 O.S. Supp. 2015, Section 16-26), which relates to emergency drought conditions; modifying maximum time that certain resolution may remain in effect; exempting agricultural producers from certain resolutions declaring a period of extreme fire danger; modifying requirements for exemption; requiring written plan be submitted; specifying contents; prohibiting certain burning activities in certain burn plans; providing that certain exemptions shall not supersede certain proclamations, authority or liability; and providing an effective date.

SUBJECT: Emergency drought conditions

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

SECTION 1. AMENDATORY 2 O.S. 2011, Section 16-26, as last amended by Section 1, Chapter 256, O.S.L. 2015 (2 O.S. Supp. 2015, 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 during the drought emergency is necessary to afford protection as determined by a representative of the Division of Forestry, or

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

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

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

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

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

B. 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 of this state in which the board of county commissioners of the county has passed a resolution declaring a period of extreme fire danger. As used in this subsection, "extreme fire danger" means:

a. severe, extreme, or exceptional drought conditions exist as determined by the National Oceanic and Atmospheric Administration (NOAA) pursuant to its criteria,

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

c. either of the following:

(1) 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

(2) where data is available, more than twenty percent (20%) of the wildfires in the county have been caused by escaped debris or controlled burning.

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 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. The resolution shall be effective for a period not to exceed ~~thirty (30)~~ fourteen (14) days from the date of passage by the board of county commissioners, unless the burn ban is removed earlier by the same method by which it was approved. If extreme fire danger conditions persist, subsequent resolutions may be passed by the board of county commissioners in the same manner as provided in this paragraph. The board of county commissioners, in the resolution, may grant exceptions to the fire prohibition based on appropriate precautionary measures.

4. ~~Any resolution passed by a board of county commissioners that declares a period of extreme fire danger shall include a provision to allow agricultural producers to burn cropland, range, or pastureland as part of their management operations~~ Agricultural producers burning cropland, rangeland, forests or pastures as a preferred method of managing their property shall be exempt from any resolution passed by a board of county commissioners that declares a period of extreme fire danger so long as the agricultural producers have complied with the following procedures:

a. ~~submission of a written application to burn to the board of county commissioners~~ submit a written prescribed burn plan to the local fire department and,

if within a protection area, the local office or local representative of the Forestry Division of the Oklahoma Department of Agriculture, Food, and Forestry nearest the land to be burned that shall include the following information:

(1) the name and telephone number of the agricultural producer conducting the burn,

(2) the address and legal description of the area to be burned,

(3) the objective and purpose of the burn,

(4) a list of fire departments and sheriff's offices that are required to be notified pursuant to subparagraph c of this paragraph,

(5) a list of adjoining landowners required to be notified pursuant to Section 16-28.2 of this title,

(6) a description of any firebreaks used to define the boundary of the prescribed burn,

(7) a statement of prescribed weather conditions,

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

(9) an ignition plan for the burn,

b. ~~receipt of approval, in writing, by the local fire department with suppression responsibility for the area to be burned~~ keep a copy of the written prescribed burn plan provided for in subparagraph a of this paragraph on site when conducting the prescribed burn,

c. ~~construction of adequate fire lines and assurance of adequate personnel and equipment on hand to control the fire~~ notify the county sheriff and the dispatch center of the local fire department prior to conducting the prescribed burn, and

d. ~~compliance~~ comply with the notification procedures outlined in Section 16-28.2 of ~~Title 2 of the Oklahoma Statutes~~ this title.

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

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

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

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

~~6.~~ 9. The provisions of this subsection may be enforced by any law enforcement officer of this state.

~~7.~~ 10. Any person convicted of violating the provisions of this subsection shall be guilty of a misdemeanor and shall be subject to a fine of not more than Five Hundred Dollars ($500.00), to imprisonment for not more than one (1) year, or to both such fine and imprisonment.

~~8.~~ 11. The selling of fireworks shall not be considered an act in violation of this subsection.

SECTION 2. This act shall become effective November 1, 2016.

Passed the House of Representatives the 19th day of May, 2016.

Presiding Officer of the House
of Representatives

Passed the Senate the 24th day of May, 2016.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 25th

day of May, 2016, at 11:40 o'clock A M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 6th

day of June, 2016, at 3:26 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 6th

day of June, 2016, at 4:53 o'clock P. M.

By: Chris Benge