

1 **SENATE FLOOR VERSION**

2 February 12, 2024

3 SENATE BILL NO. 1526

By: Green

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5
6 An Act relating to forestry administration and
7 enforcement; amending 2 O.S. 2021, Sections 16-2, 16-
8 4, and 16-8, which relate to the Oklahoma Forestry
9 Code; defining terms; modifying definitions;
10 modifying duties of Forestry Division of Oklahoma
11 Department of Agriculture, Food, and Forestry;
12 modifying terms; prohibiting liability for certain
13 activities; amending 2 O.S. 2021, Sections 16-21 and
14 16-28.2, which relate to forest fire prevention;
15 modifying term; modifying prescribed notification
16 area plan form; updating statutory references;
17 updating statutory language; and providing an
18 effective date.

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

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

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

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

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

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

1 ~~3.~~ 4. "Established property line" means any boundary line which
2 has been:

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

7 b. established by a registered land surveyor, or

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

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

13 ~~4.~~ 6. "Forest rangers" means all employees of the Forestry
14 Division who have responsibilities in forest and natural resource
15 protection, including laborers, mechanics, and other employees who
16 assist in forest and natural resource protection;

17 ~~5.~~ 7. "Forest" means a tract of land that is at least ten
18 percent (10%) stocked by trees of any size, whether of commercial or
19 noncommercial species, or formerly having tree cover and not
20 currently developed for ~~nonforest~~ non-forest use, including
21 woodlands, woodlots, windbreaks, and shelterbelts;

22 8. "Hazardous duty" means actions performed on or near the fire
23 line required to fight and control wildfires in order to protect
24 lives, property, forests, and natural resources as well as functions

1 associated with wildland hazardous fuels reduction work to mitigate
2 and reduce wildfire threat to lives, property, forests, and natural
3 resources;

4 ~~6.~~ 9. "Logging or timber harvesting operations" means the
5 cutting or harvesting of and removal of timber from a site, leaving
6 the root mass intact;

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

9 ~~8.~~ 11. "Prescribed burning" means the controlled application of
10 fire by the owner or designated agent of croplands, rangelands, or
11 forestlands ~~of fire to naturally occurring~~ vegetative fuel under
12 specified environmental conditions and following appropriate
13 precautionary measures, ~~which causes~~ intended to keep the fire ~~to be~~
14 confined to a predetermined area and accomplish land management
15 objectives;

16 ~~9.~~ 12. "Timber" means live and dead trees and the profit in any
17 live and dead trees including, but not limited to, bark, foliage,
18 wood, vines, firewood, crossties, and shrubbery;

19 ~~10.~~ 13. "Timber owner" means any person who owns the right to
20 cut or harvest timber at the time the timber is to be cut or
21 harvested, or who legally owns the severed timber;

22 ~~11.~~ 14. "Wildfires" means any fire which is not controlled on
23 forests, grasslands, fields, or croplands; ~~and~~

24 ~~12.~~ "Wild lands"

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

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

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

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

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

21 Section 16-8. A. The Forestry Division of the Oklahoma
22 Department of Agriculture, Food, and Forestry, in connection with
23 the enforcement of the Oklahoma Forestry Code, shall have the
24 following powers, authority, and duties:

- 1 1. To enforce the provisions of this code and other forest and
2 forest protection laws of this state;
- 3 2. To prevent, mitigate, detect, ~~extinguish~~ suppress, and
4 investigate wildfires in this state;
- 5 3. To provide ~~wildfire fighting~~ wildland firefighting crews,
6 who shall be under the control and direction of forest rangers and
7 other designated agents of the Division;
- 8 4. To appoint district foresters, ~~assistant district foresters~~,
9 investigators, rangers, and other employees;
- 10 5. To use the resources of the Division on state-owned parks
11 and other state-administered land to prevent and suppress ~~fires~~
12 wildfires, to mitigate hazardous wildland fuels, and to establish
13 ~~fire fighting~~ wildland firefighting crews who shall be authorized to
14 suppress ~~fires~~ wildfires on state land;
- 15 6. To be reimbursed on an actual cost basis for all services
16 provided to state parks and other land administered by ~~the State of~~
17 ~~Oklahoma~~ this state;
- 18 7. To investigate cases of forest timber theft;
- 19 8. To make available for sale surplus state vehicles directly
20 to rural fire departments or municipal fire departments, in cities
21 or towns with a population under ten thousand (10,000) ~~population~~.
22 State vehicles may be offered for sale only after approval is given
23 in writing by the Office of Management and Enterprise Services and
24 an evaluation is made of each vehicle and a price set by the Office

1 of Management and Enterprise Services. The Forestry Division may
2 only receive the amount authorized by the Office of Management and
3 Enterprise Services for the sale of the vehicle;

4 9. To purchase equipment from the Rural Fire Defense Equipment
5 Revolving Fund's inventory, when advantageous to the state, and to
6 reimburse the ~~Revolving Fund~~ revolving fund; and

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

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

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

22 C. Forest rangers, employees of the Division, and all persons
23 under contract or agreement with the Division to assist in ~~fire~~
24 ~~fighting~~ firefighting operations, as well as persons called upon by

1 forest rangers or other authorized employees of the Division to
2 assist in ~~fire fighting~~ firefighting under the direction or
3 supervision of employees of the Division, may, in the performance of
4 their duties, set backfires, dig trenches, ~~cut firelines~~ control
5 lines, and carry on all customary activities in the fighting of
6 wildfires without incurring liability to any person.

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

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

22 1. The Director of the Forestry Division may appoint, subject
23 to the approval of the State Board of Agriculture, special officers
24 who shall have the power and authority to arrest. The special

1 officers shall have power and authority throughout the state, under
2 the direction and control of the Division, to enforce the criminal
3 provisions contained in the Oklahoma Forestry Code, other laws
4 relating to forests and wildfires, and the Oklahoma Agricultural
5 Code.

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

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

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

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

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

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

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

16 B. 1. Within sixty (60) days prior to conducting a prescribed
17 burn, the owner of the land to be burned shall orally or in writing
18 notify all landowners whose lands adjoin the owner's land to be
19 burned.

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

24

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

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

14 D. Any person wishing to conduct a prescribed burn shall
15 complete ~~this a form, distributed~~ prescribed by the Oklahoma
16 Department of Agriculture, Food, and Forestry, ~~which shall be in~~
17 ~~substantially the following form:~~.

18 ~~PRESCRIBED BURN NOTIFICATION PLAN~~

19 Name _____ Phone _____

20 Address _____ County _____

21 City, State, Zip _____

22 Ranch name, if any _____

23 Area to be burned _____

24 Approximate acres to be burned _____

1 ~~Written distance description of location~~ _____

2 _____

3 ~~Projected time frame~~ _____

4 ~~Date of previous burn~~ _____

5 ~~Objectives to be accomplished through the prescribed burn:~~

6 _____

7 _____

8 _____

9 ~~Contact information:~~

10 _____

11 _____

12 _____

13 ~~Rural Fire Department:~~

14 ~~Name:~~ _____ ~~Location:~~ _____ ~~Phone No.:~~ _____

15 _____

16 _____

17 ~~Forestry District Office (for protection areas)~~ _____

18 _____

19 ~~Adjoining landowners:~~

20 _____

21 _____

22 _____

23 _____

24 Prescribed Burn Notification Plan

1 Full Name: _____

2 Address: _____

3 City, State, Zip: _____

4 Phone Number: _____ Email: _____

5 County: _____ Ranch Name: _____

6 Description of Burn Area: _____

7 _____

8 _____

9 Approximate Acres: _____

10 Written Description of Location: _____

11 _____

12 Projected Time Frame: _____

13 _____

14 Previous Burn Date: _____

15 Objectives to be accomplished: _____

16 _____

17 Burn Boss and Contact Info: _____

18 Fire Department Name, Location, and Phone Number: _____

19 _____

20 OFS Area Office (if applicable): _____

21 Adjoining Landowners: _____

22 _____

23 The original copy of the form ~~must~~ shall be filed with the rural
 24 fire department nearest to the land to be burned. If conducting a

1 prescribed burn within a protection area, a copy of the prescribed
2 burn notification plan ~~must~~ shall be filed with the local office or
3 local representative of the Forestry Division nearest to the land to
4 be burned. A copy of the plan shall be retained by the owner of the
5 land to be burned.

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

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

16 F. A prescribed burn conducted pursuant to provisions of this
17 section shall:

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

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

22 G. 1. Any owner conducting a prescribed burn who is found by a
23 court of law to have caused damages or injury as a result of
24

1 accident or by ordinary negligence shall only be civilly liable for
2 actual damages resulting from the prescribed burn.

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

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

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

16 COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS
17 February 12, 2024 - DO PASS

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