

Stricken language would be deleted from and underlined language would be added to present law.
Act 695 of the Regular Session

State of Arkansas
94th General Assembly
Regular Session, 2023

As Engrossed: S3/27/23

A Bill

SENATE BILL 415

By: Senators Stone, Gilmore, B. Johnson, *J. Boyd, B. Davis, Hill, M. McKee, G. Stubblefield, D. Wallace*
By: Representatives Beaty Jr., Wardlaw

For An Act To Be Entitled

AN ACT TO ESTABLISH THE ARKANSAS PRESCRIBED BURNING
ACT; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH THE ARKANSAS PRESCRIBED
BURNING ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 15, Chapter 30, is amended to add an additional subchapter to read as follows:

Subchapter 1 – Arkansas Prescribed Burning Act

15-30-101. Title.

This subchapter shall be known and may be cited as the "Arkansas Prescribed Burning Act".

15-30-102. Legislative findings and intent.

(a) The General Assembly finds that:

(1) The prescribed burning of forestlands is a management tool that is beneficial to Arkansas's public safety, forest, and wildlife resources, environment, and economy;

(2) The prescribed burning of forestlands reduces the naturally occurring buildup of vegetative fuels on forestlands, which reduces the risk and severity of wildfires and lessens the loss of life and property when wildfires occur;



(3) The state's ever-increasing population is resulting in urban development directly adjacent to fire-prone forestlands, which is referred to as a wildland-urban interface area;

(4) The use of prescribed burning in these wildland-urban interface areas substantially reduces the risk of wildfires that cause damage;

(5) Many of Arkansas's natural ecosystems require periodic fire for their survival;

(6) Prescribed burning is essential to the perpetuation, restoration, and management of many plant and animal communities;

(7) Prescribed burning benefits game, nongame, and endangered wildlife species by increasing the growth and yield of plants that provide forage and an area for escape and brooding and that satisfy other habitat needs;

(8) Forestlands are economic, biological, and aesthetic resources of statewide significance;

(9) In addition to reducing the frequency and severity of wildfires, prescribed burning of forestlands helps to prepare sites for replanting and natural seeding, to control insects and diseases, and to increase productivity;

(10) Prescribed burning enhances the resources on public use lands, such as state and national forests, wildlife refuges, nature preserves, and wildlife management areas; and

(11) Prescribed burning enhances private lands that are managed for wildlife refuges, recreation, nature preserves, game lands, and other purposes.

(b) It is the intent of the General Assembly that prescribed burning is conducted in Arkansas:

(1) To reap the benefits described in subsection (a) of this section; and

(2) In a responsible and safe manner.

15-30-103. Definitions.

As used in this subchapter:

(1) "Landowner" means the possessor of a fee interest, a tenant, lessee, holder of a conservation easement as defined in § 15-20-402, lawful

occupant, or person in lawful control of the premises;

(2)(A) "Prescribed burning" means the planned and controlled application of fire to vegetative fuels under specified weather, environmental, and other conditions, while following appropriate precautionary measures that will:

(i) Confine the fire to a predetermined area; and

(ii) Accomplish the intended management objectives for the area to be burned.

(B) "Prescribed burning" does not include crop residue burning;

(3) "Prescribed burning prescription" means a written plan establishing the conditions and methods for conducting prescribed burning that:

(A) Is prepared by a qualified prescribed burner; and

(B) Addresses the starting, controlling, and extinguishing of the prescribed burning; and

(4)(A) "Qualified prescribed burner" means an individual who has successfully completed a prescribed burner training program approved by the Department of Agriculture or the Arkansas State Game and Fish Commission.

(B) "Qualified prescribed burner" includes an individual who has successfully completed a prescribed burner training program in another state if the prescribed burner training program is recognized and approved by the department or commission.

15-30-104. Civil liability.

(a) A prescribed burning conducted in compliance with this subchapter is in the public interest and does not constitute a public or private nuisance.

(b) A landowner or a landowner's agent who conducts a prescribed burning in compliance with this subchapter is not liable in a civil action for any damage or injury caused by a fire in the prescribed burning, including without limitation the reignition of a smoldering and previously contained fire or resulting from smoke, unless the claimant proves by a preponderance of the evidence that the claimant suffered damages as a result of negligence by the landowner or the landowner's agent in planning, implementing, or conducting the prescribed burning.

15-30-105. Requirements for prescribed burning prescriptions and prescribed burnings.

(a)(1) Before conducting a prescribed burning, a qualified prescribed burner shall develop a prescribed burning prescription.

(2) A copy of the prescribed burning prescription developed under subdivision (a)(1) of this section shall be:

(A) Provided to the landowner; and

(B) Except as provided in subdivision (c)(3) of this section, in the possession of the qualified prescribed burner on the site of the prescribed burning throughout the duration of the prescribed burning.

(b) A prescribed burning prescription shall include:

(1) The landowner's name and address;

(2) A description of the area to be burned;

(3) A map of the area to be burned;

(4) The objectives of the prescribed burning;

(5) The name of the qualified prescribed burner responsible for conducting the prescribed burning;

(6) A summary of the methods that the qualified prescribed burner intends to use to start, control, and extinguish the prescribed burning, based on the particular circumstances involved with the prescribed burning; and

(7) A description of the allowable weather conditions in which the prescribed burning can be conducted.

(c)(1) A qualified prescribed burner shall conduct a prescribed burning in accordance with a prescribed burning prescription that satisfies subsection (b) of this section.

(2) Except as provided in subdivision (c)(3) of this section, from the start of the prescribed burning until the prescribed burning is adequately confined to reasonably prevent escape of the prescribed burning from the area intended to be burned, the qualified prescribed burner shall be:

(A) Present on the site of the prescribed burning; and

(B) In charge of the prescribed burning.

(3) A landowner may conduct a prescribed burning and be considered in compliance with this subchapter without being a qualified

prescribed burner if the landowner is:

(A) Burning a tract of forestland of one hundred (100) acres or less owned by the landowner; and

(B) Following all conditions established in a prescribed burning prescription prepared by a qualified prescribed burner.

(d) Before conducting a prescribed burning, a landowner or the landowner's agent shall notify the Department of Agriculture and, if requested by the department, provide the department with a copy of the prescribed burning prescription.

15-30-106. Application of other law.

A prescribed burning conducted in compliance with this subchapter is not subject to the open-air fire provisions in §§ 20-22-301 - 20-22-306.

15-30-107. Rules.

The Department of Agriculture shall promulgate rules on the requirements for becoming a qualified prescribed burner under this subchapter.

/s/Stone

APPROVED: 4/11/23