

SENATE AMENDMENT 1 TO hb1517.

deleting the title and substituting therefor the following:

"_AN ACT TO CLARIFY RESTRICTIONS ON THE OPEN BURNING OF RESIDENTIAL YARD WASTES; TO SET OUT ENFORCEMENT OPTIONS; AND FOR OTHER PURPOSES._"

and

by deleting the subtitle and substituting therefor the following:

"_AN ACT CONCERNING THE OPEN BURNING OF YARD WASTES._"

and

by deleting sections 1 through 5 and substituting therefor the following:

"SECTION 1. (1) Open burning shall mean for the purposes of this act the incineration or combustion of waste materials as a method of disposal without any means to control the fuel/air ratio. None of the activities exempted from regulation as air pollution in Arkansas Code Annotated § 8-4-305 or in regulations adopted by the Arkansas Pollution Control and Ecology Commission shall constitute open burning, provided such activities do not cause a fire or safety hazard.

(2) Yard wastes shall mean grass clippings, leaves, and shrubbery trimmings collected from residential property.

SECTION 2. State Policy Concerning Disposal of Yard Waste. It is the policy of this state that the open burning of residential yard waste should be discouraged and that alternative methods of yard waste disposal should be developed and made readily available to all citizens. In enforcement of this policy, state and local governments should first pursue educational and voluntary compliance efforts, with punitive sanctions reserved as the last resort to address instances of localized nuisances, fire and safety hazards, or refusal to obey reasonable demands to cease open burning when alternative disposal methods are available.

SECTION 3. Restrictions on Open Burning Yard Wastes.

(a) The open burning of yard wastes is discouraged. Enforcement shall be through informal educational efforts, unless such efforts are proven to be manifestly ineffective in preventing specific instances of open burning.

(b) No citation or civil fine shall be issued or levied against the owner of a private residence for the open burning of brush or yard waste unless such burning constitutes:

(1) a persistent or recurring offense to surrounding landowners, as determined by complaints to state or local officials;

(2) a fire hazard to surrounding property, as determined by appropriate local officials; or

(3) a safety hazard causing obscured vision on public roads or highways.

(c) (1) No citation or civil fine shall be issued or levied pursuant to the exception of subsection (b) (1) unless first preceded by a Warning Order or other appropriate notification delivered to the alleged violator by certified mail, restricted delivery, or other appropriate mechanism of legal service, indicating that a local or state agency has received a complaint concerning open burning activities. Such order or notification need not reveal the identity of the complainants. This order or notification shall advise the alleged violator of alternatives to open burning of yard wastes.

(2) For the purposes of subsection (b) (1), persistent or recurring burning includes activities that are seasonal or annual. Each day of any event of open burning that continues following executed service of a Warning Order or notification may justify a citation or civil fine unless the alleged violator takes reasonably diligent measures to extinguish or control the fire.

(d) Nothing in this act shall be construed as impairing the authority of local fire control officials to abate fire hazards through whatever regulatory mechanisms deemed necessary and appropriate.

(e) Nothing in this act shall be construed as impairing the authority of the Department of Pollution Control and Ecology to abate reasonably likely exceedances of National Ambient Air Quality Standards.

SECTION 4. Private Rights Unchanged.

This act shall not be construed as impairing common law private rights of action.

SECTION 5. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 6. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 7. All laws and parts of laws in conflict with this act are hereby repealed."