

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997  
4

As Engrossed: H2/14/97 S3/25/97

## A Bill

HOUSE BILL 1517

5 By: Representatives Terry Smith and Wilkinson  
6  
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### For An Act To Be Entitled

9 "AN ACT TO CLARIFY RESTRICTIONS ON THE OPEN BURNING OF  
10 RESIDENTIAL YARD WASTES; TO SET OUT ENFORCEMENT OPTIONS;  
11 AND FOR OTHER PURPOSES."  
12

### Subtitle

13 "AN ACT CONCERNING THE OPEN BURNING OF  
14 YARD WASTES."  
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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19 SECTION 1. (1) Open burning shall mean for the purposes of this act  
20 the incineration or combustion of waste materials as a method of disposal  
21 without any means to control the fuel/air ratio. None of the activities  
22 exempted from regulation as air pollution in Arkansas Code Annotated § 8-4-305  
23 or in regulations adopted by the Arkansas Pollution Control and Ecology  
24 Commission shall constitute open burning, provided such activities do not  
25 cause a fire or safety hazard.

26 (2) Yard wastes shall mean grass clippings, leaves, and shrubbery  
27 trimmings collected from residential property.  
28

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

1 disposal methods are available.

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3 SECTION 3. Restrictions on Open Burning Yard Wastes.

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

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

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

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

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

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

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

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

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

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