

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

A Bill

HOUSE BILL 1829

4
5 By: Representative Schexnayder

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."

Subtitle

14 "AN ACT CONCERNING THE OPEN BURNING OF
15 YARD WASTES."

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

19 SECTION 1. Legislative Intent and Construction.

20 (1) The purpose of this act is to control and discourage the open
21 burning of yard wastes in this state. The General Assembly finds that open
22 burning, once a common and legitimate activity, is now recognized as the least
23 satisfactory alternative for disposal of yard waste. The practice results in
24 fire and other safety hazards, as well as contributing to localized and
25 transported air pollution.

26 (2) Since 1989, the General Assembly has sought to foster regional
27 management systems designed to provide environmentally responsible solid waste
28 disposal to all citizens. However, these disposal options are not available
29 to or known by all citizens, particularly concerning alternatives to the open
30 burning of yard waste.

31 (3) The intent of this act is to clarify state law concerning this
32 issue, and to implement a state policy of gradual response to the problem of
33 the open burning of residential yard waste.

35 SECTION 2. Definitions.

36 (1) "Open burning" shall mean for the purposes of this act the

1 incineration or combustion of waste materials as a method of disposal without
2 any means to control the fuel/air ratio. None of the activities exempted from
3 regulation as air pollution in A.C.A. § 8-4-305 or in regulations adopted by
4 the Arkansas Pollution Control and Ecology Commission shall constitute "open
5 burning," provided such activities do not cause a fire or safety hazard.

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

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9 SECTION 3. State Policy Concerning Disposal of Yard Waste.

10 It is the policy of this state that the open burning of residential yard
11 waste should be prohibited and that alternative methods of yard waste disposal
12 should be developed and made readily available to all citizens. In
13 enforcement of this policy, state and local governments should first pursue
14 educational and voluntary compliance efforts, with punitive sanctions reserved
15 as the last resort to address instances of localized nuisances, fire and
16 safety hazards, or refusal to obey reasonable demands to cease open burning
17 when alternative disposal methods are available.

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19 SECTION 4. Restrictions on Open Burning Yard Wastes.

20 (a) The open burning of yard wastes is prohibited. Enforcement of this
21 prohibition shall be through informal educational efforts, unless such efforts
22 are proven to be manifestly ineffective in preventing specific instances of
23 open burning.

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

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

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

31 (3) A safety hazard causing obscured vision on public roads or
32 highways.

33 (c)(1) No citation or civil fine shall be issued or levied pursuant to
34 the exception of subsection (b)(1) unless first preceded by a Warning Order or
35 other appropriate notification delivered to the alleged violator by certified
36 mail, restricted delivery, or other appropriate mechanism of legal service,

1 indicating that a local or state agency has received a complaint concerning
 2 open burning activities. Such Order or notification need not reveal the
 3 identity of the complainant(s). This Order or notification shall advise the
 4 alleged violator of alternatives to the open burning of yard wastes.

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

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12 SECTION 5. Private Rights Unchanged.

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

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16 SECTION 6. All provisions of this act of a general and permanent nature
 17 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 18 Revision Commission shall incorporate the same in the Code.

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20 SECTION 7. If any provision of this act or the application thereof to
 21 any person or circumstance is held invalid, such invalidity shall not affect
 22 other provisions or applications of the act which can be given effect without
 23 the invalid provision or application, and to this end the provisions of this
 24 act are declared to be severable.

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26 SECTION 8. All laws and parts of laws in conflict with this act are
 27 hereby repealed.

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