

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

SENATE BILL 415

5 By: Senators Stone, Gilmore, B. Johnson  
6 By: Representatives Beaty Jr., Wardlaw  
7

## For An Act To Be Entitled

9 AN ACT TO ESTABLISH THE ARKANSAS PRESCRIBED BURNING  
10 ACT; AND FOR OTHER PURPOSES.  
11

## Subtitle

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13 TO ESTABLISH THE ARKANSAS PRESCRIBED  
14 BURNING ACT.  
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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20 SECTION 1. Arkansas Code Title 15, Chapter 30, is amended to add an  
21 additional subchapter to read as follows:

22 Subchapter 1 – Arkansas Prescribed Burning Act  
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24 15-30-101. Title.

25 This subchapter shall be known and may be cited as the "Arkansas  
26 Prescribed Burning Act".  
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28 15-30-102. Legislative findings and intent.

29 (a) The General Assembly finds that:

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

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



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

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

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

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

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

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

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

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

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

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

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

31           (2) In a responsible and safe manner.

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33           15-30-103. Definitions.

34           As used in this subchapter:

35           (1)(A) "Prescribed burning" means the planned and controlled  
36 application of fire to vegetative fuels under specified weather,

1 environmental, and other conditions, while following appropriate  
2 precautionary measures that will:

3 (i) Confine the fire to a predetermined area; and  
4 (ii) Accomplish the intended management objectives  
5 for the area to be burned.

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

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

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

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

14 (3)(A) "Qualified prescribed burner" means an individual who has  
15 successfully completed a prescribed burner training program approved by the  
16 Department of Agriculture.

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

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22 15-30-104. Civil liability.

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

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

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35 15-30-105. Requirements for prescribed burning prescriptions and  
36 prescribed burnings.

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

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

5 (A) Provided to the landowner; and

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

9 (b) A prescribed burning prescription shall include:

10 (1) The landowner's name and address;

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

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

13 (4) The objectives of the prescribed burning;

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

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

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

23 (2) Except as provided in subdivision (c)(3) of this section,  
24 the qualified prescribed burner shall be:

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

26 (B) In charge of the prescribed burning until the fire is  
27 adequately confined to reasonably prevent escape of the fire from the area  
28 intended to be burned.

29 (3) A landowner may conduct a prescribed burning and be  
30 considered in compliance with this subchapter without being a qualified  
31 prescribed burner if the landowner is:

32 (A) Burning a tract of forestland of fifty (50) acres or  
33 less owned by the landowner; and

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

36 (d) Before conducting a prescribed burning, a landowner or the

1 landowner's agent shall notify the Department of Agriculture and, if  
2 requested by the department, provide the department with a copy of the  
3 prescribed burning prescription.

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5 15-30-106. Application of other law.

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

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