

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1969



ENROLLED

HOUSE BILL No. 747

(By Mr. Hawse and Mr. Edgar)



PASSED March 5, 1969

In Effect Ninety days from Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 3-17-69

747

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House Bill No. 747

(By MR. HAWSE and MR. EDGAR)

[Passed March 5, 1969; in effect ninety days from passage.]

AN ACT to amend and reenact sections five, six and ten, article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to forest fire seasons and the prevention of forest fires.

Be it enacted by the Legislature of West Virginia:

That sections five, six and ten, article three, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. FOREST AND WILDLIFE AREAS.

§20-3-5. Forest fire seasons; permits for fires; prohibited fires; closure of forests.

- 1 The periods of each year between March first and May
- 2 thirty-first, inclusive, and October first and December

3 thirty-first, inclusive, are hereby designated as forest fire
4 seasons. No person shall during any such fire season, ex-
5 cept between the hours of five o'clock P.M. eastern stand-
6 ard time and five o'clock A.M. eastern standard time, set on
7 fire or cause to be set on fire any forest land, or any
8 grass, grain, stubble, slash, debris, or other inflammable
9 materials. Such prohibition of fires between five o'clock
10 A.M. eastern standard time and five o'clock P.M. eastern
11 standard time shall not be construed to include (1) small
12 fires set for the purpose of food preparation, or pro-
13 viding light or warmth around which all grass, brush,
14 stubble, or other debris has been removed for a distance
15 of ten feet, and (2) burning which may be conducted at
16 any time when the ground surrounding the burning site is
17 covered by one inch or more of snow. Any person who
18 sets or causes to be set any fire permitted by this section
19 shall not leave such fire unattended for any period of time.

20 The director or his designated appointees or employees
21 may issue permits authorizing fires prohibited by the
22 preceding paragraph. Such permits may be granted on
23 such conditions and for such periods of time as the di-

24 rector deems necessary to prevent danger from fire to
25 life or property, and noncompliance with any term of the
26 permit shall be a violation of this section. Any permit
27 which was obtained through wilful misrepresentation
28 shall be invalid. All permit holders shall take all neces-
29 sary and adequate precautions to confine and control any
30 fire permitted by the authorization; failure to take such
31 action shall be a violation of this section and shall be
32 justification for the director's obtaining a court order
33 requiring the permit holder to extinguish and cease using
34 fires during the forest fire season.

35 When the director considers it necessary to prevent
36 danger from fire to life or property, he may, with the prior
37 approval of the governor, prohibit the starting of and
38 require the extinguishment of any fire in any forest area
39 designated by the director, and such action may include
40 any fire for which a permit has been issued under the
41 preceding paragraph. In addition, if so deemed necessary,
42 the director may, with the prior approval of the gov-
43 ernor, designate any forest area as a danger area and
44 prohibit entry thereon or use thereof except for the

45 purposes and on the conditions he designates. The di-
46 rector by proclamation shall establish such areas and
47 designate which fires are prohibited therein; and if a
48 danger area is established, he shall announce the pur-
49 poses for which and conditions under which entry thereon
50 or use thereof may be made. Action hereunder may be
51 taken by the director at any time during the year. Notice
52 of any proclamation hereunder shall be posted on each
53 primary road at the entrance to the designated areas and
54 copies of the proclamation shall be furnished at the time
55 of posting to newspapers, radio stations and television
56 stations which serve the area designated. The proclama-
57 tion shall not be effective until twenty-four hours after
58 it is posted as herein provided. Any proclamation here-
59 under shall remain in force until the director, with the
60 approval of the governor, by order terminates it. The
61 order shall designate the time of termination, and notice
62 of any such order shall be furnished to each newspaper,
63 radio station and television station which received a copy
64 of the proclamation. The posted notices shall be re-
65 moved as soon as possible after termination of any such

66 proclamation. Any person who starts or fails to extin-
67 guish a fire so prohibited or enters or uses a danger area
68 otherwise than permitted shall be guilty of a violation of
69 this section.

**§20-3-6. Failure of person to extinguish fire started or used by
him; escape of fire to property of another; throwing
lighted material on forest land.**

1 Any person who, by himself, or by his servants, agents
2 or guides, or as a servant, agent or guide of any other
3 person, shall at any time build or use any fire in any
4 field, in any public or private road, or in any area adja-
5 cent to or in any forest land in this state, shall, before
6 leaving such fire for any period of time, totally extin-
7 guish the same.

8 Any person or his agent or employee who shall set or
9 cause to be set any fire at any time in the use and occupa-
10 tion of any land on which the burning was being done,
11 or who shall permit any such fire to escape to the lands
12 of another, shall be in violation of the provisions of this
13 section.

14 A person shall not at any time throw or place any
15 lighted match, cigar, cigarette, firecracker or lighted ma-

16 terial on any forest land, private road, public highway or
17 railroad right-of-way within this state.

18 Any person who violates any provision of this section
19 shall be guilty of a misdemeanor.

**§20-3-10. Spark arresters for sawmills, etc.; risk and hazard
reduction to protect against fires.**

1 No person, firm or corporation shall use or operate in
2 forest land, or within one eighth of a mile therefrom, a
3 sawmill, a power shovel, or an engine or machine cap-
4 able of throwing sparks, unless the equipment is pro-
5 vided with an adequate spark arrester. Escape of fire from
6 such equipment shall be prima facie evidence that such
7 appliance was not maintained properly in compliance
8 with this section.

9 Any person, firm, or corporation owning any land and
10 knowing of inflammable waste disposal on said land,
11 and any person, firm, or corporation, using any land for
12 the purpose of inflammable waste disposal, shall remove
13 annually all grass, brush, debris and other inflammable
14 material adjacent to such disposal areas to provide ade-
15 quate protection to prevent the escape of fire to adjacent
16 lands. Escape of fire from any such disposal area shall

17 be prime facie evidence that this section had not been
18 complied with.

19 Any person, firm or corporation violating this section
20 shall be guilty of a misdemeanor.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Tompkins
Chairman Senate Committee

Phyllis J. Rutledge
Vice Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Hoever M. S.
Clerk of the Senate

A. Blankenship
Clerk of the House of Delegates

Lyndon B. Johnson
President of the Senate

Sam F. Bowers
Speaker House of Delegates

The within approved this the 14th
day of March, 1969.

Arch. D. Shaw, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/11/69

Time 2:00 p.m.

RECEIVED

MAR 17 9 10 PM '69

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA