

FILED

2011 APR -5 PM 3: 11

OFFICE OF THE  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
FIRST REGULAR SESSION, 2011

—●—  
**ENROLLED**

**COMMITTEE SUBSTITUTE  
FOR  
House Bill No. 2986**

(By Delegates Hartman, Michael, Williams,  
Crosier, Shaver, D. Campbell and Romine)  
[By Request of the Division of Forestry]

—●—  
Passed March 12, 2011

In Effect From Passage

HB 2986

FILED

2011 APR -5 PM 3: 12

**ENROLLED**

DEPARTMENT OF WEST VIRGINIA  
SECRETARY OF STATE

COMMITTEE SUBSTITUTE

FOR

**H. B. 2986**

(BY DELEGATES HARTMAN, MICHAEL, WILLIAMS,  
CROSIER, SHAVER, D. CAMPBELL AND ROMINE)  
[BY REQUEST OF THE DIVISION OF FORESTRY]

[Passed March 12, 2011; in effect from passage.]

AN ACT to amend and reenact §20-3-5 of the Code of West Virginia, 1931, as amended, relating to forest fire seasons; modifying prohibited and permissible fire times and forest fire seasons; revising the procedure for obtaining a burning permit; establishing permit fees for certain entities; exempting agriculture from permit fees; setting forth fire control requirements; and establishing criminal and civil penalties.

*Be it enacted by the Legislature of West Virginia:*

That §20-3-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 3. FORESTS AND WILDLIFE AREAS.**

**§20-3-5. Forest fire seasons; prohibited and permissible fires; burning permits and fees; fire control measures; criminal and civil penalties.**

1 (a) *Forest fire seasons.* -- March 1 through May 31, and  
2 October 1 through December 31 are designated as forest fire  
3 seasons. During any fire season, a person may set on fire or  
4 cause to be set on fire any forest land, or any grass, grain,  
5 stubble, slash, debris, or other inflammable materials only  
6 between five o'clock p.m. and seven o'clock a.m., at which  
7 time the fire must be extinguished.

8 (b) *Permissible fires during forest fire seasons.* -- The  
9 following attended fires are permitted without a burning  
10 permit unless there is a burning ban in effect:

11 (1) Small fires set for the purpose of food preparation, or  
12 providing light or warmth around which all grass, brush,  
13 stubble, or other debris has been removed for a distance of  
14 ten feet from the fire; and

15 (2) Burning conducted at any time when the ground  
16 surrounding the burning site is covered by one inch or more  
17 of snow.

18 (c) *Burning permits.*-- The director or his or her designee  
19 may issue burning permits authorizing fires during forest fire  
20 seasons that are otherwise prohibited by this section. The  
21 permits shall state the requisite conditions and time frame to  
22 prevent danger from the fire to life or property.

23 (1) *Permit fees.*-- Entities required to pay a permit fee are  
24 those engaged in commercial, manufacturing, public utility,  
25 mining and like activities. Agricultural activities are exempt

26 from paying the permit fee. The permit fee is \$125 per site  
27 and shall be deposited into the Division of Forestry Fund  
28 (3081) to be used to administer the provisions of this section.  
29 The permit fee covers the fire season during which it is  
30 issued.

31 (2) Noncompliance with any condition of the permit is a  
32 violation of this section. Any permit which was obtained  
33 through willful misrepresentation is invalid and violates this  
34 section.

35 (3) Permit holders shall take all necessary and adequate  
36 precautions to confine and control fires authorized by the  
37 permit. Failure to take action is a violation of this section  
38 and is justification for the director to revoke the permit.

39 (d) *Fire control.* --


40 (1) With approval of the Governor, the director may  
41 prohibit the starting of and require the extinguishment of fire  
42 in any designated area, including fires permitted by this  
43 section.

44 (2) With approval of the Governor, the director may  
45 designate any forest area as a danger area, prohibit entry, and  
46 declare conditional uses and prohibited areas of the forest by  
47 proclamation at any time of the year. The proclamation shall  
48 be furnished to newspapers, radio stations and television  
49 stations that serve the designated area and shall become  
50 effective after twenty-four hours. The proclamation remains  
51 in effect until the director, with the approval of the Governor,  
52 terminates it. The order shall designate the time of  
53 termination, and notice of the order shall be furnished to each  
54 newspaper, radio station and television station that received  
55 a copy of the proclamation.

56 (3) Burning is not permitted by this section until all  
57 inflammable material has been removed from around the  
58 material to be burned and a safety strip of at least ten feet is  
59 established to ensure that the fire will not escape.

60 (e) *Criminal and civil penalties.* -- A person or entity that  
61 violates this section is guilty of a misdemeanor and, upon  
62 conviction, shall be fined not less than \$100 and not more  
63 than \$1,000 for each violation. In addition to fines and costs,  
64 a person or entity convicted of a violation of this section shall  
65 pay a \$200 civil penalty to the division within sixty days.  
66 The civil penalty shall be collected by the court in which the  
67 person is convicted and forwarded to the division and  
68 deposited in the Division of Forestry Fund (3081) to be used  
69 to administer the provisions of this section.


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

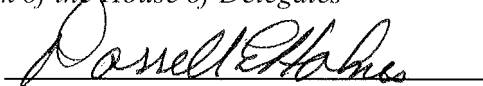
  
Chairman, House Committee

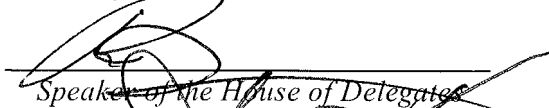
  
Chairman, Senate Committee

Originating in the House.

To take effect from passage.

  
Clerk of the House of Delegates

  
Clerk of the Senate

  
Speaker of the House of Delegates

  
President of the Senate

The within is approved this the 5<sup>th</sup>  
day of April, 2011.

  
Governor

2011 APR -5 PM 3:12  
REGISTRATION STATE

PRESENTED TO THE GOVERNOR

MAR 31 2011

Time 11:30 am  
EPT