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
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.

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

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

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

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

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

(1) Permit fees. -- Entities required to pay a permit fee are those engaged in commercial, manufacturing, public utility, mining and like activities. Agricultural activities are exempt
from paying the permit fee. The permit fee is $125 per site and shall be deposited into the Division of Forestry Fund (3081) to be used to administer the provisions of this section. The permit fee covers the fire season during which it is issued.

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

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

(d) Fire control. --

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

(2) With approval of the Governor, the director may designate any forest area as a danger area, prohibit entry, and declare conditional uses and prohibited areas of the forest by proclamation at any time of the year. The proclamation shall be furnished to newspapers, radio stations and television stations that serve the designated area and shall become effective after twenty-four hours. The proclamation remains in effect until the director, with the approval of the Governor, terminates it. The order shall designate the time of termination, and notice of the order shall be furnished to each newspaper, radio station and television station that received a copy of the proclamation.
(3) Burning is not permitted by this section until all inflammable material has been removed from around the material to be burned and a safety strip of at least ten feet is established to ensure that the fire will not escape.

(e) Criminal and civil penalties. -- A person or entity that violates this section is guilty of a misdemeanor and, upon conviction, shall be fined not less than $100 and not more than $1,000 for each violation. In addition to fines and costs, a person or entity convicted of a violation of this section shall pay a $200 civil penalty to the division within sixty days. The civil penalty shall be collected by the court in which the person is convicted and forwarded to the division and deposited in the Division of Forestry Fund (3081) to be used 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 day of __________, 2011.

Governor