

The Cole-Crutchfield Forest Fire Law

Act 85 of the 1935 General Assembly (as Amended)

“AN ACT TO PROTECT THE FOREST OF THE STATE”

Be it enacted by the General Assembly of the State of Arkansas:

[ARK. CODE § 5-38-310. Unlawful Burning and Misdemeanors]

(a) The following acts shall be Class A misdemeanors and shall be punished by a fine of not exceeding one thousand dollars (\$1,000.00), or a jail sentence of not more than one (1) year, or both such fine and imprisonment.

1. Setting on fire or causing or procuring to be set on fire any forest, brush or other flammable vegetation on lands not his own.
2. Allowing a fire to escape from the control of the person building or having charge of the fire, or to spread to the lands of any person other than the builder of the fire.
3. Burning any brush, stumps, grass, stubble or debris of any sort, whether on his own land or that of another without taking necessary precaution both before lighting the fire and at all times thereafter to prevent the escape thereof. The escape of such fire to adjoining timber, brush, or grasslands shall be prima facie evidence that necessary precautions were not taken.
4. Building a camp fire upon lands, not one's own, without clearing the ground around it free from material which will carry fire, or leaving a camp fire to spread thereon or by throwing away a lighted cigar, match, cigarette, or by the use of firearms or in any other manner starting a fire in forest material not his own and leaving the same unextinguished.
5. Defacing or destroying fire warning notices.
6. Except as provided in subsection (c) of this section, failure by any employee of the Arkansas Forestry Commission or any officer charged with a duty of enforcing a criminal law to attempt to secure the arrest and conviction of any person against who he or she has or can secure evidence of violating a fire law; and
7. Setting on fire or causing or procuring to be set on fire any forest, brush, or flammable material in violation of a burn ban on outdoor burning declared under § 12-75-108 unless the defendant was acting pursuant to a permit issued by the chief executive of the political subdivision issuing the burn ban.

(b) No bond for costs shall be required in any court of this state for prosecution for a violation of a provision of this section.

(c) Failure of the Arkansas Forestry Commission to enforce subdivision (a)(7) of this section is not a class A misdemeanor.

[ARK. CODE § 5-38-311. Unlawful Burning - Felony]

The following acts are Class C felonies and shall be punishable by fine not exceeding ten thousand dollars (\$10,000.00) or less than three (3) nor more than ten (10) years or both such fine and imprisonment.

1. Purposely or willfully or maliciously setting on fire the lands of another.
2. Starting a fire on one's own lands or lands which he has leased or under his control with the intent of letting it escape to the lands of another.
3. The destruction or injuring of, or theft of any telephone lines, towers, buildings, tools, or equipment used in the detection, reporting or suppression of fires.

[ARK. Code § 20-22-302. Notice of Intent to Burn Forest Vegetation]

(a) Any person in this state who desires to burn forest vegetation, including debris from land clearing shall notify the Arkansas Forestry Commission of the person's intention to burn. Notification of the proposed burning shall include the time and location of the intended burning, and other facts which the person or the Arkansas Forestry Commission may deem relevant.

(b) The landowner or other person having charge of the land or his/her agent, shall be present and in attendance at the time of the burning.

[ARK. CODE §20-22-303]

Any fire on any forested, cut-over, brush lands or grasslands burning uncontrolled is hereby declared a public nuisance by reason of its menace of life or property. Any person, firm, or corporation responsible for either the starting or the existence of such fire is hereby required to control or extinguish it immediately and if said person, firm or corporation shall refuse, neglect or fail to do so the State Forestry Commission and any other organized fire suppression force may summarily abate the nuisance thus constituted by controlling or extinguishing the fire and the person, firm, or corporation responsible for the fire shall be liable for payment of all reasonable costs and expenses incurred in suppressing the same. Should the costs and expenses of suppression not be paid within ninety (90) days of the invoice date, then such costs shall be recoverable by civil action. (Revised Act 845-1981)

[ARK. CODE §20-22-304]

Persons, firms, or corporations starting or being responsible for fires that occasion damage to any other person shall make satisfaction in double damage to the party injured. Damages are to be recovered by civil action.

[ARK. CODE §20-22-306]

Conviction for violation of parts 1,2,3, or 4 of Section 1 or any part of Section 2, or Section 3 shall be prima facie evidence of responsibility in civil action to recover damage or suppression costs under Section 3 or 4 of this act.

[ARK. CODE §15-31-113]

Fines generated by law enforcement activities of the Arkansas Forestry Commission will be deposited into the State Forestry Fund.

[ARK. CODE §20-22-301]

(a) The Arkansas Forestry Commission shall designate those employees of the Commission who shall have the powers of peace officers in the enforcement of the fire laws, theft of property laws, to the extent they apply to theft of timber, laws pertaining to the unlawful disposal of solid waste when the unlawful disposal occurs on forest land, and any criminal laws pertaining to the unlawful damage, vandalism, or theft of personal property when the personal property is used in forestry or logging operations.

(b) Arkansas Forestry Commission employees and fire crews under their direction or control shall be allowed to enter any lands and construct fire lines, or set backfires, and obtain water, if necessary, in the performance of their duties without liability for trespass or reasonable damage therefrom.

(c) Upon request of the landowner or the landowner's agent and after the wildfire danger has subsided, the Arkansas Forestry Commission or fire crews under their direction or control will replace the water obtained under the authority of this section.

[ARK. CODE §5-38-302. Reckless Burning]

A person commits the offense of reckless burning if he purposely starts a fire or causes an explosion, whether on his own property or that of another, and thereby recklessly:

1. Creates a substantial risk of death or serious physical injury to any person; or
2. Destroys or causes substantial damage to an occupiable structure of another person; or
3. Destroys or causes substantial damage to a vital public facility.

Reckless burning is a Class D felony: punishable by a fine not to exceed ten thousand dollars (\$10,000.00) or six (6) years in jail, or both such fine and imprisonment.

[ARK. CODE §5-38-303. Failure to Control or Report a Dangerous Fire]

A person commits the offense of failure to control or report a dangerous fire if he knows that a fire is unattended, and is endangering the life, physical safety, or is burning or is threatening to burn a substantial amount of property of another person and he:

1. Fails to act in a reasonable manner to put out or control the fire when he can do so without

substantial risk to himself; or

2. Fails to act in a reasonable manner to report the fire.

Failure to control or report a dangerous fire is a Class B Misdemeanor: punishable by a fine not to exceed five hundred dollars (\$500.00) or ninety (90) days in jail, or both such fine and imprisonment.