



**AFC Fire Law  
2013**



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Arkansas Forestry Commission  
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**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:**

**Fire Laws and Related Statues:**

**ARK. CODE 5-38-310. Unlawful  
Burning**

(a) A person commits the offense of unlawful burning if the person:

(1) Sets on fire or causes or procures to be set on fire any forest, brush, or other inflammable vegetation on another person's land;

(2) Allows a fire that he or she built or has charge of to escape from his or her control or to spread to a person's land other than that of the builder of the fire;

(3) (A) Burns any brush, stumps, logs, rubbish, fallen timber, grass, stubble, or debris of any sort, whether on the person's own land or another person's land, without taking necessary precaution both before lighting the fire and at any time after

lighting the fire to prevent the escape of the fire.

(B) The escape of fire to adjoining timber, brush, or grassland is prima facie evidence that a necessary precaution was not taken;

(4) Builds a camp fire on another person's land without clearing the ground immediately around it of material that will carry fire;

(5) Leaves on another person's land a camp fire to spread on that person's land;

(6) Starts a fire in forest material not the person's own by throwing away a lighted cigar, match, or cigarette or by the use of a firearm or in any other manner and leaves the fire unextinguished;

(7) Defaces or destroys a fire warning notice;

(8) Is an employee of the Arkansas Forestry Commission or an officer charged with a duty of enforcing a criminal law and fails to attempt to secure the arrest and conviction of a person against whom he or she has evidence or can secure evidence of violating a fire law; or

(9) Sets on fire or causes or procures to be set on fire any forest, brush, or other flammable material in violation of a burn ban on outdoor burning declared under § 12-75-108.

(b) Unlawful burning is a Class A misdemeanor: punishable by a fine not exceeding \$1,000.00, or a jail sentence of not more than one (1) year, or both such fine and imprisonment.

(c) A bond for costs shall not be required in a court of this state for prosecution for violation of this section.

(d) It is not a violation of:

(1) Subdivision (a)(8) of this section for an employee of the commission to fail to enforce subdivision (a)(9) of this section; or

(2) Subdivision (a)(9) of this section if the person was:

(A) Acting under a permit issued by the chief executive of the political subdivision issuing the burn ban; or

(B) (i) Setting on fire or causing or procuring to be set on fire any crop remainder or remaining vegetation after harvest of the crop on the person's land.

(ii) (a) In order to provide a safety barrier between the crop remainder or remaining vegetation and adjacent land, the person shall perform adequate disking of field perimeters or perform other safety measures as required by the county burn ban officer.

(b) If the person does not comply with subdivision (d)(2)(B)(ii)(a) of this section, the defense under subdivision (d)(2)(B)(i) is not available, and the person is liable for actual damages to adjacent land caused by the fire.

### **ARK. CODE 5-38-311. Unlawful Burning –Miscellaneous Felonies**

(a) The following acts are Class C felonies: punishable by a fine not exceeding \$10,000.00 or less than three (3) and not more than ten (10) years in jail or both such fine and imprisonment.

(1) Purposely setting on fire the land of another person.

(2) Starting a fire on the person's own land that he or she has leased or are

under his or her control with the intent of letting the fire escape to the land of another person; and

(3) The destruction or injuring of, or theft of any telephone line, tower, building, tool, or equipment used in the detection, reporting or suppression of fires.

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

### **ARK. CODE 5-38-302. Reckless Burning**

(a) A person commits the offense of reckless burning if the person 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 or 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.

(b) Reckless burning is a Class D felony: punishable by a fine not to exceed \$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) A person commits the offense of failure to control or report a dangerous fire if the person knows that a fire is unattended and is endangering life, physical safety, or is burning or is threatening to burn a substantial amount of property of another person, and the person:

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.

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

**ARK. CODE 20-22-302. Notice of Intent to Burn Forest Vegetation**

(a)(1) 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.

(2) This notification requirement shall not apply to the "open burning" of "yard wastes" as those terms are defined in §8-6-1701.

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

**ARK. CODE 20-22-303. Public nuisance-Duty to extinguish**

(a) Any fire on any forested, cut-over, brush lands or grasslands burning uncontrolled is hereby declared a public nuisance by reason of its menace to life or property.

(b)(1) Any person, firm, or corporation responsible for either the starting or the existing of such fire is hereby required to control or extinguish it immediately, and, if the person, firm, or corporation shall refuse, neglect or fail to do so the Arkansas Forestry Commission and any other organized fire suppression force may summarily abate the nuisance thus constituted by controlling or extinguishing the fire. The person, firm, or corporation responsible for the fire shall be liable for payment of all reasonable costs and expenses incurred in suppressing the fire.

(2) Should the cost and expenses of suppression not be paid within ninety (90) days of the invoice date, then such costs shall be recoverable by civil action.

**ARK. CODE 20-22-304. Civil action for damages**

(a) Persons, firms, or corporations starting or being responsible for fires that cause damage to any other person shall make satisfaction in double damage to the party injured.

(b) Damages are to be recovered by civil action.

**ARK. CODE 20-22-306. Conviction as prima facie evidence in civil action.**

Conviction for violation of §5-38-310 or any part of §5-38-311 shall be prima facie evidence of responsibility in civil action to recover damage or suppression cost under § 20-22-304.

## **ARK. CODE 20-22-301. Enforcement-Nonliability**

(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 15-31-113**

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

## **If you Must Burn Follow These Guidelines**

### **1. Plan Ahead**

Notify the AFC you will be burning.

Keep tools at hand.

Get extra help.

Stay with the fire until it is completely out.

### **2. Make it Safe to Burn**

Use a screened trash barrel.

Clear all debris within 10 feet of the burning barrel.

Build a fire line around your field or pile of debris before burning.

### **3. Burn at the Right Time**

Don't burn on dry, windy days.

Burn early in the morning or late in the evening.

### **4. Make Sure it is Legal to Burn**

Check with your County Judge's office.

# Important Phone Numbers

**Wildfire Reporting**  
**1-800-468-8834**

**Prescribed Burning**  
**1-800-830-8015**

