

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**H. B. 2986**

(By Delegates Hartman, Michael, Williams,  
Crosier, Shaver, D. Campbell and Romine)

(By Request of the Division of the 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;**

1                   **criminal and civil penalties.**

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

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

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

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

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

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

1 paying the permit fee. The permit fee is \$125 per site and shall  
2 be deposited into the Division of Forestry Fund (3081) to be used  
3 to administer the provisions of this section. The permit fee covers  
4 the fire season during which it is issued.

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

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

12 (d) *Fire control.* --

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

16 (2) With approval of the Governor, the director may designate  
17 any forest area as a danger area, prohibit entry, and declare  
18 conditional uses and prohibited areas of the forest by proclamation  
19 at any time of the year. The proclamation shall be furnished to  
20 newspapers, radio stations and television stations that serve the  
21 designated area and shall become effective after twenty-four hours.  
22 The proclamation remains in effect until the director, with the  
23 approval of the Governor, terminates it. The order shall designate  
24 the time of termination, and notice of the order shall be furnished  
25 to each newspaper, radio station and television station that

1 received a copy of the proclamation.

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

6 (e) *Criminal and civil penalties.* -- A person or entity that  
7 violates this section is guilty of a misdemeanor and, upon  
8 conviction, shall be fined not less than \$100 and not more than  
9 \$1,000 for each violation. In addition to fines and costs, a  
10 person or entity convicted of a violation of this section shall pay  
11 a \$200 civil penalty to the division within sixty days. The civil  
12 penalty shall be collected by the court in which the person is  
13 convicted and forwarded to the division and deposited in the  
14 Division of Forestry Fund (3081) to be used to administer the  
15 provisions of this section.