

1 SB150
2 115941-2
3 By Senators Glover and Brooks
4 RFD: Judiciary
5 First Read: 12-JAN-10

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8 SYNOPSIS: Existing law makes it a crime for a person
9 to burn or set fire to forests, grasses, or
10 woodlands not under the control of that person.
11 Existing law makes it a crime for a person to
12 possess certain paraphernalia or use certain
13 paraphernalia to burn or set fire to grass or
14 woodlands not controlled by that person. Existing
15 law also makes it a crime for a person or entity to
16 allow fire to escape from forests, grasses, or
17 woodlands not under the control of the person.

18 This bill would also make it a crime for a
19 person to attempt to burn or set fire to forests,
20 grasses, or woodlands not under the control of that
21 person. This bill would clarify that paraphernalia
22 means incendiary paraphernalia and includes any
23 time-delay incendiary device.

24 This bill would also make it a crime for any
25 person, firm, or corporation to recklessly or with
26 wanton disregard for safety start a fire or cause a
27 fire to start.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 Relating to arson in forests, grasses, or woodlands;
27 to amend Section 9-13-11, Code of Alabama 1975, to make it a

1 crime to attempt to willfully, maliciously, or intentionally
2 set fire to forests, grasses, or woodlands; to specify that
3 paraphernalia means incendiary paraphernalia, including any
4 time-delay incendiary device; to make it a crime to recklessly
5 or with wanton disregard for safety start a fire or cause a
6 fire to start; and in connection therewith would have as its
7 purpose or effect the requirement of a new or increased
8 expenditure of local funds within the meaning of Amendment 621
9 of the Constitution of Alabama of 1901, now appearing as
10 Section 111.05 of the Official Recompilation of the
11 Constitution of Alabama of 1901, as amended.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Section 9-13-11, Code of Alabama 1975, is
14 amended to read as follows:

15 "§9-13-11.

16 "(a) It shall be a Class C felony for every person,
17 firm, association, or corporation ~~who~~ to do either of the
18 following:

19 "(1) Willfully, maliciously or intentionally burns,
20 sets fire to, attempts to set fire to, or causes to be burned
21 or any fire to be set to any forest, grass, woodlands, or
22 other inflammable vegetation on any lands not owned, leased,
23 controlled, or in the lawful possession of the person, firm,
24 association, or corporation setting ~~such~~ the fire or burning
25 such lands or causing ~~such~~ the fire to be set or lands to be
26 burned~~7.~~

1 "(2) Shall have in his or her possession or shall
2 set, throw or place any device, instrument, or other
3 incendiary paraphernalia, including any time-delay incendiary
4 device, in or adjacent to any forest, grass, woodlands, or
5 other inflammable vegetation, which forest, grass, woodland or
6 other inflammable vegetation is not owned, leased, controlled,
7 or in the lawful possession of the person possessing such
8 device, instrument, or paraphernalia.

9 "(b) It shall be a Class B misdemeanor for any
10 person, firm, association, or corporation:

11 "(1) Who allows a fire to escape from land owned,
12 leased, or controlled by him or her, whereby any property of
13 another is injured or destroyed;

14 "(2) Who shall burn any brush, stumps, logs,
15 rubbish, fallen timber, grass, stubble, or debris of any sort,
16 whether on one's own land or that of another, without taking
17 reasonably necessary precautions, both before lighting the
18 fire and all times thereafter to prevent the escape thereof;

19 "(3) Who shall set fire to any brush, stumps, logs,
20 rubbish, fallen timber, grass, stubble, or debris of any sort
21 within or near any forest or woodland, unless the area
22 surrounding said material to be burned shall be cleared of all
23 inflammable material for a reasonably safe distance in all
24 directions and maintained free of all inflammable material so
25 long as such fire shall continue to burn;

26 "(4) Who shall set a fire within or near any forest,
27 woodland, or grassland without clearing the ground immediately

1 around it free from material which will carry fire, or shall
2 leave such fire before it is totally extinguished or start a
3 fire in any forest, woodland, or grassland by throwing away a
4 lighted cigar, cigarette, match or by the use of firearms or
5 in any other manner and leave the same unextinguished;

6 "(5) Who shall destroy, remove, injure, or deface
7 any fire warning or notices or deface any inscription or
8 devices comprising such notices;

9 "(6) Who shall burn any new ground, field,
10 grasslands, or woodlands, or adjoining woodlands or grasslands
11 of another within any area which has been placed under
12 organized forest fire protection by the State Forestry
13 Commission without first obtaining verbal authorization from
14 the State Forestry Commission by obtaining a burning permit
15 number.

16 "(c) It shall be a Class A misdemeanor for any
17 person to recklessly or with wanton disregard for the safety
18 of persons or property burn, set fire to, attempt to set fire
19 to, or cause to be burned or any fire to be set to any forest,
20 grass, woodlands, or other inflammable vegetation on any lands
21 not owned, leased, controlled, or in the lawful possession of
22 the person setting the fire or burning such lands or causing
23 the fire to be set or lands to be burned without the
24 permission of the lawful owner.

25 "~~(c)~~(d) (1) Burning permits may be obtained from the
26 district operations center when the center is in active
27 operation. The following criteria must be met:

1 "a. The person requesting the permit must have
2 adequate tools, equipment, and manpower to stay with and
3 control the fire during the entire burning period.

4 "b. The person requesting the permit is responsible
5 to keep the fire confined.

6 "c. In no case will the person requesting the permit
7 allow the fire to be unattended until it is dead out.

8 "(2) Burning permits will be issued if the
9 individual requesting the permit states that the above
10 criteria will be met unless the State Forester shall declare a
11 fire alert. Under fire alert conditions the State Forester may
12 allow issuance of permits at his or her discretion, taking
13 into account the number of fires burning in the district,
14 current and projected weather conditions, the ability of the
15 person seeking the permit to contain the fire and that
16 individual's knowledge of fire behavior, and other factors
17 which may affect fires and fire behavior. A fire alert will be
18 issued by the State Forester for any district or portion of a
19 district that in the opinion of the State Forester, has
20 existing conditions which produce extraordinary danger from
21 fire or smoke.

22 "(3) If subsequent to issuance of a permit a
23 lawfully authorized fire escapes to the lands of another and
24 an investigation reveals that the permit holder did not meet
25 all the criteria as set forth above, the fire will be treated
26 as if no legal authorization had been obtained.

1 "(4) A burning permit once issued may be revoked if
2 the person requesting the permit fails to comply with proper
3 burning procedures or if weather conditions develop which may
4 result in erratic fire or smoke behavior.

5 "~~(d)~~ (e) An area shall be deemed legally placed under
6 organized forest fire protection by the State Forestry
7 Commission of the State of Alabama upon proclamation of the
8 State Forester. Such proclamation shall describe the lands
9 placed in said area and shall be published once a week for two
10 consecutive weeks in a newspaper published in the county where
11 the lands composing said area are located. If there are no
12 newspapers published in the county where said lands are
13 located, then said proclamation shall be published in a
14 newspaper of an adjoining county. In the event the lands
15 composing said area are located in more than one county, such
16 proclamation shall be so published in a newspaper in each
17 county where said lands are located. Beginning with the
18 twelfth day after the first publication of said proclamation
19 in said newspaper or newspapers, the lands described in the
20 proclamation shall be deemed in an area under organized forest
21 fire protection. Upon the trial of any person, firm, or
22 corporation for the violation of any provision of this
23 section, a certified copy of said proclamation executed by the
24 State Forester shall be admissible in evidence and shall be
25 conclusive evidence of the fact that the lands described in
26 said proclamation constitute an area under organized forest
27 fire protection within the meaning of this section.

1 "~~(e)~~(f) All moneys collected for any violation of
2 this section as fines, forfeitures, etc., shall go to the
3 Alabama Forestry Commission Fund and shall be used in
4 defraying the expense of the administration of such State
5 Forestry Commission."

6 Section 2. Although this bill would have as its
7 purpose or effect the requirement of a new or increased
8 expenditure of local funds, the bill is excluded from further
9 requirements and application under Amendment 621, now
10 appearing as Section 111.05 of the Official Recompilation of
11 the Constitution of Alabama of 1901, as amended, because the
12 bill defines a new crime or amends the definition of an
13 existing crime.

14 Section 3. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.