

# Tennessee Wildfire Laws



[www.BurnSafeTN.org](http://www.BurnSafeTN.org)

**Tennessee Department of Agriculture  
Division of Forestry**

**(Revised 2013)**

### **8-1-108. Power to forbid starting of fires during drought.**

- (a) During periods of extreme drought in this state, or in any area of the state, the governor is hereby authorized and empowered to issue proclamations forbidding the starting of any open air and unconfined fire on or near woodlands where dangerous fire hazards exist during the period of such drought.
- (b) If the governor issues a proclamation pursuant to this section, anyone igniting an open air or unconfined fire in violation of the proclamation commits a Class A misdemeanor.

### **11-4-406. Fire protection - Right of entry - Duty of care - Damages.**

The division, through its authorized employees and agents, may, at any time, go upon any land within this state for the purpose of investigating, preventing, or controlling forest, woods, brush, or grass fires of any nature, or to take other action necessary for the control of forest disease, insects, and other pests without incurring liability for trespassing. This includes the right to take needed fire fighting equipment onto and over such property, but such persons are charged with the responsibility of taking reasonable precautions to ensure minimum damages. However, nothing herein shall preclude any such property owner

whose premises be entered upon for such purpose from recovering such property owner's actual damages where such person's property is damaged as a result of such entry or crossing, and the state board of claims, upon satisfactory proof of such damage and cause thereof, is authorized to make payments therefor to such injured property owner.

#### **11-4-409. Powers of division.**

The division has the power to enforce all conservation laws and regulations of the state affecting matters or materials under the jurisdiction of the division.

#### **11-4-410. Liability for damages.**

Any person, firm, or corporation negligently or willfully setting fires shall be civilly liable to the division for any expenses incurred in extinguishing such fires.

#### **39-14-301. Arson.**

- (a) A person commits an offense who knowingly damages any structure by means of a fire or explosion:
  - (1) Without the consent of all persons who have a possessory, proprietary or security interest therein; or

(2) With intent to destroy or damage any structure to collect insurance for the damage or destruction or for any unlawful purpose.

(b) (1) Arson is a Class C felony.

### **39-14-302. Aggravated arson.**

(a) A person commits aggravated arson who commits arson as defined in § 39-14-301 or § 39-14-303:

(1) When one (1) or more persons are present therein; or

(2) When any person, including firefighters and law enforcement officials, suffers serious bodily injury as a result of the fire or explosion.

(b) (1) Aggravated arson is a Class A felony.

### **39-14-303. Setting fire to personal property or land.**

(a) A person commits arson who knowingly damages any personal property, land, or other property, except buildings or structures covered under § 39-14-301, by means of a fire or explosion:

(1) Without the consent of all persons who have a possessory or proprietary interest therein; or

(2) With intent to destroy or damage any such property for any unlawful purpose.

(b) A violation of this section is a Class E felony.

**39-14-304. Reckless burning.**

(a) A person commits reckless burning who:

- (1) Recklessly starts a fire on the land, building, structure or personal property of another; or
- (2) Starts a fire on such person's own land, building, structure or personal property and recklessly allows the fire to escape and burn the property of another; or
- (3) Knowingly starts an open air or unconfined fire in violation of a burning ban as provided in §39-14-306 (b).

(b) Reckless burning is a Class A misdemeanor.

**39-14-305. Leaving fire near woodland unattended.**

(a) It is unlawful for any person who originates or uses an open fire to leave such fire unattended without totally extinguishing the same within one hundred fifty feet (150') of forest or woodlands or within one hundred fifty feet (150') of other inflammable material, the setting fire to which inflammable material would naturally and proximately result in such fire being conveyed to forest or woodlands.

(b) A violation of this section is a Class B misdemeanor.

### **39-14-306. Setting fires at certain times without permit**

- (a) (1) It is unlawful for any person to start an open-air fire between October 15 and May 15, inclusive, within five hundred feet (500') of any forest, grasslands or woodlands without first securing a permit from the state forester or the state forester's duly authorized representative. Depending upon the potential for hazardous burning conditions, the state forester may prescribe a period other than October 15 to May 15 within which a permit must be obtained prior to starting an open-air fire.
- (2) A violation of this subsection (a) is a Class C misdemeanor.
- (b) (1) In extreme fire hazard conditions, the commissioner of agriculture in consultation with the state forester and the county mayors of impacted counties, may issue a burning ban prohibiting all open air fire in any area of the state.
- (2) A violation of this subsection (b) is a reckless burning and punishable as a Class A misdemeanor as provided in § 39-14-304.
- (c) This section shall not apply to fires that may be set within the corporate limits of any incorporated town or city that has passed ordinances controlling the setting of fires.

### **39-14-307. Forfeiture.**

All vehicles or property used by the sole owner in the commission of an offense under § 39-14-301, § 39-14-302, § 39-14-303 or § 39-14-304, and anything of value received as compensation for the commission of such offense are subject to forfeiture.

### **40-7-118. Use of citations in lieu of continued custody of an arrested person.**

(a) As used in this section, unless the context otherwise requires:

- (1) “Citation” means a written order issued by a peace officer requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time. Such order shall require the signature of the person to whom it is issued;
- (2) “Magistrate” means any state judicial officer, including the judge of a municipal court, having original trial jurisdiction over misdemeanors or felonies; and
- (3) (A) “Peace officer” means an officer, employee or agent of government who has a duty imposed by law to:
  - (i) Maintain public order;
  - (ii) Make arrests for offenses, whether that duty

extends to all offenses or is limited to specific offenses; and

- (iii) Investigate the commission or suspected commission of offenses; and
- (B) “Peace officer” also includes an officer, employee or agent of government who has the duty or responsibility to enforce laws and regulations pertaining to forests in this state.
- (b) (1) A peace officer who has arrested a person for the commission of a misdemeanor committed in such peace officer’s presence, or who has taken custody of a person arrested by a private person for the commission of a misdemeanor, shall issue a citation to such arrested person to appear in court in lieu of the continued custody and the taking of the arrested person before a magistrate. If the peace officer is serving an arrest warrant or capias issued by a magistrate for the commission of a misdemeanor, it is in the discretion of the issuing magistrate whether the person is to be arrested and taken into custody or arrested and issued a citation in accordance with this section in lieu of continued custody. Each such warrant or capias shall specify the action to be taken by



the serving peace officer who shall act accordingly.

**68-102-145. Sheriffs and highway patrol officers to prevent spread of forest fires - Punishment for refusing aid.**

- (a) It is the duty of various county sheriffs and likewise of the state highway patrol officers to use all effective methods in their power to prevent the spread of forest fires. Whenever the various sheriffs or any member of the state highway patrol shall become aware of the fact that there is a forest fire in the vicinity, such officer shall be under the duty of summoning a sufficient number of the male citizens of the county in which the fire is burning, who are between eighteen (18) and thirty (30) years of age, to control the fire, and the officer shall be in complete charge and direction of the efforts to restrain such fire until duly relieved by division of forestry personnel.
- (b) Any person who, after being duly summoned by the officer to aid in the suppression of the fire, willfully refuses to act in the premises commits a Class C misdemeanor.

**68-102-146. Controlled burns - Burning woods  
- Notice - Extinguishment - Penalty.**

- (a) No person shall set fire to any woods not such person's own property, nor to such person's own, without giving at least two (2) days' notice to persons owning the adjacent lands, and also taking effectual care to extinguish such fire before it extends beyond such person's own lands.
- (b) A violation of this section is a Class B misdemeanor.

## **FELONIES**

**Class A: 15-60 years,  
and fine up to \$50,000**

**Class B: 8-30 years,  
and fine up to \$25,000**

**Class C: 3-15 years,  
and fine up to \$10,000**

**Class D: 2-12 years,  
and fine up to \$5,000**

**Class E: 1-6 years,  
and fine up to \$3,000**

**If no designation: Class E**

## **MISDEMEANORS**

**Class A: Up to 11 months 29 days,  
and/or \$2,500 fine**

**Class B: Up to 6 months,  
and/or \$500 fine**

**Class C: Up to 30 days,  
and/or \$50 fine**

**If no designation: Class A**

## **Attention**

**This information is provided by the Tennessee Department of Agriculture, Division of Forestry as a public service and is not intended as legal advice. The Department may seek civil damages in addition to prosecution of any criminal violations. The Department is not responsible for any errors in this pamphlet.**



**Please scan with your mobile device to connect with [www.burnsafetn.org](http://www.burnsafetn.org) for more wildfire prevention information**



Tennessee Department of Agriculture, Division of Forestry. Authorization No. 325309, 50,000 copies, May 2013. This public document was promulgated at a cost of \$.07 per copy.