

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

1 SB150

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4 ENROLLED, An Act,

5 Relating to arson in forests, grasses, or woodlands;
6 to amend Section 9-13-11, Code of Alabama 1975, to make it a
7 crime to attempt to willfully, maliciously, or intentionally
8 set fire to forests, grasses, or woodlands; to specify that
9 paraphernalia means incendiary paraphernalia, including any
10 time-delay incendiary device; to make it a crime to recklessly
11 or with wanton disregard for safety start a fire or cause a
12 fire to start; and in connection therewith would have as its
13 purpose or effect the requirement of a new or increased
14 expenditure of local funds within the meaning of Amendment 621
15 of the Constitution of Alabama of 1901, now appearing as
16 Section 111.05 of the Official Recompilation of the
17 Constitution of Alabama of 1901, as amended.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

21 "§9-13-11.

22 "(a) It shall be a Class C felony for every person,
23 firm, association, or corporation to do either of the
24 following:

1 "(1) Willfully, maliciously or intentionally burns,
2 sets fire to, attempts to set fire to, or causes to be burned
3 or any fire to be set to any forest, grass, woodlands, or
4 other inflammable vegetation on any lands not owned, leased,
5 controlled, or in the lawful possession of the person, firm,
6 association, or corporation setting the fire or burning such
7 lands or causing the fire to be set or lands to be burned.

8 "(2) Shall have in his or her possession or shall
9 set, throw or place any device, instrument, or other
10 incendiary paraphernalia, including any time-delay incendiary
11 device, in or adjacent to any forest, grass, woodlands, or
12 other inflammable vegetation, which forest, grass, woodland or
13 other inflammable vegetation is not owned, leased, controlled,
14 or in the lawful possession of the person possessing such
15 device, instrument, or paraphernalia.

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

18 "(1) Who recklessly or with wanton disregard for the
19 safety of persons or property allows a fire to escape from
20 land owned, leased, or controlled by him or her, whereby any
21 property of another is injured or destroyed;

22 "(2) Who shall burn any brush, stumps, logs,
23 rubbish, fallen timber, grass, stubble, or debris of any sort,
24 whether on one's own land or that of another, without taking

1 reasonably necessary precautions, both before lighting the
2 fire and all times thereafter to prevent the escape thereof;

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

10 "(4) Who shall set a fire within or near any forest,
11 woodland, or grassland without clearing the ground immediately
12 around it free from material which will carry fire, or shall
13 leave such fire before it is totally extinguished or start a
14 fire in any forest, woodland, or grassland by throwing away a
15 lighted cigar, cigarette, match or by the use of firearms or
16 in any other manner and leave the same unextinguished;

17 "(5) Who shall destroy, remove, injure, or deface
18 any fire warning or notices or deface any inscription or
19 devices comprising such notices;

20 "(6) Who shall burn any new ground, field,
21 grasslands, or woodlands, or adjoining woodlands or grasslands
22 of another within any area which has been placed under
23 organized forest fire protection by the State Forestry
24 Commission without first obtaining verbal authorization from

1 the State Forestry Commission by obtaining a burning permit
2 number.

3 "(c) It shall be a Class A misdemeanor for any
4 person to recklessly or with wanton disregard for the safety
5 of persons or property burn, set fire to, attempt to set fire
6 to, or cause to be burned or any fire to be set to any forest,
7 grass, woodlands, or other inflammable vegetation on any lands
8 not owned, leased, controlled, or in the lawful possession of
9 the person setting the fire or burning such lands or causing
10 the fire to be set or lands to be burned without the
11 permission of the lawful owner.

12 "(d) (1) Burning permits may be obtained from the
13 district operations center when the center is in active
14 operation. The following criteria must be met:

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

18 "b. The person requesting the permit is responsible
19 to keep the fire confined.

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

22 "(2) Burning permits will be issued if the
23 individual requesting the permit states that the above
24 criteria will be met unless the State Forester shall declare a
25 fire alert. Under fire alert conditions the State Forester may

1 allow issuance of permits at his or her discretion, taking
2 into account the number of fires burning in the district,
3 current and projected weather conditions, the ability of the
4 person seeking the permit to contain the fire and that
5 individual's knowledge of fire behavior, and other factors
6 which may affect fires and fire behavior. A fire alert will be
7 issued by the State Forester for any district or portion of a
8 district that in the opinion of the State Forester, has
9 existing conditions which produce extraordinary danger from
10 fire or smoke.

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

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

20 "(e) An area shall be deemed legally placed under
21 organized forest fire protection by the State Forestry
22 Commission of the State of Alabama upon proclamation of the
23 State Forester. Such proclamation shall describe the lands
24 placed in said area and shall be published once a week for two
25 consecutive weeks in a newspaper published in the county where

1 the lands composing said area are located. If there are no
2 newspapers published in the county where said lands are
3 located, then said proclamation shall be published in a
4 newspaper of an adjoining county. In the event the lands
5 composing said area are located in more than one county, such
6 proclamation shall be so published in a newspaper in each
7 county where said lands are located. Beginning with the
8 twelfth day after the first publication of said proclamation
9 in said newspaper or newspapers, the lands described in the
10 proclamation shall be deemed in an area under organized forest
11 fire protection. Upon the trial of any person, firm, or
12 corporation for the violation of any provision of this
13 section, a certified copy of said proclamation executed by the
14 State Forester shall be admissible in evidence and shall be
15 conclusive evidence of the fact that the lands described in
16 said proclamation constitute an area under organized forest
17 fire protection within the meaning of this section.

18 "(f) All moneys collected for any violation of this
19 section as fines, forfeitures, etc., shall go to the Alabama
20 Forestry Commission Fund and shall be used in defraying the
21 expense of the administration of such State Forestry
22 Commission."

23 Section 2. Although this bill would have as its
24 purpose or effect the requirement of a new or increased
25 expenditure of local funds, the bill is excluded from further

1 requirements and application under Amendment 621, now
2 appearing as Section 111.05 of the Official ReCompilation of
3 the Constitution of Alabama of 1901, as amended, because the
4 bill defines a new crime or amends the definition of an
5 existing crime.

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

Senate 16-FEB-10.
I hereby certify that the within Act originated in and passed
the Senate.

Senate 13-APR-10
I hereby certify that the within Act originated in and passed
the Senate, as amended by Executive Amendment.

McDowell Lee
Secretary

House of Representatives
Passed: 09-MAR-10

House of Representatives
Passed: 13-APR-10, as amended by Executive Amendment.

By: Senator Glover