

**Enrolled**  
**House Bill 3701**

Sponsored by COMMITTEE ON ENVIRONMENT AND WATER

CHAPTER .....

AN ACT

Relating to open burning in Linn County; creating new provisions; amending ORS 468A.610; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 468A.610 is amended to read:

468A.610. (1) Except as provided under ORS 468A.620, no person shall open burn or cause to be open burned, propane flamed or stack or pile burned in the counties listed in ORS 468A.560, perennial or annual grass seed crop residue or cereal grain crop residue, unless the acreage has been registered under ORS 468A.615 and the permits required by ORS 468A.575, 476.380 and 478.960 have been obtained.

(2) The maximum total registered acreage allowed to be open burned per year pursuant to subsection (1) of this section shall be:

- (a) For 2009, 20,000 acres.
- (b) For 2010 and thereafter, none.

(3) The maximum total registered acreage allowed to be stack or pile burned per year under subsection (1) of this section shall be:

- (a) For 2009, 1,000 acres.
- (b) For 2010, 1,000 acres.
- (c) For 2011, 1,000 acres.
- (d) For 2012, 1,000 acres.
- (e) For 2013 and thereafter, none.

(4) The maximum total registered acreage allowed to be propane flamed per year under subsection (1) of this section in the counties listed in ORS 468A.560 shall be:

- (a) For 2009, 500 acres.
- (b) For 2010, 500 acres.
- (c) For 2011, 500 acres.
- (d) For 2012, 500 acres.
- (e) For 2013 and thereafter, none.

(5) Fields shall be prepared for propane flaming by removing all loose straw or vacuuming, or prepared using other techniques approved by rule by the commission, and propane equipment shall satisfy best available technology.

(6)(a) Notwithstanding the limitations set forth in subsection (2) of this section, steep terrain and species identified by the Director of Agriculture by rule shall not be included in the maximum total of permitted acreage set forth in subsection (2) of this section. The additional acreage allowed to be open burned shall be 15,000 acres per year.

(b) Steep terrain and species identified by the Director of Agriculture by rule may not be open burned under the provisions of this subsection in Benton and Lane Counties and in Linn County, except for portions of northeast Linn County that are east of **the North Santiam River and north of Jefferson-Scio Drive and Robinson Drive to the west boundary of the City of Scio** [*Stayton-Scio Road*] and north of Highway 226, and portions of northeast Linn County that are east of Richardson Gap Road and north of Fish Hatchery Drive.

(7) Acreage registered to be open burned under this section may be propane flamed at the registrant's discretion without reregistering the acreage.

(8) In the event of the registration of more than the maximum allowable acres for open burning, propane flaming or stack or pile burning in the counties listed in ORS 468A.560, the commission, after consultation with the State Department of Agriculture, by rule or order may assign priority of permits based on soil characteristics, the crop type, terrain or drainage. In no event may permits be issued for more than the maximum acreage listed in subsections (2), (3), (4) and (6) of this section.

(9) Permits shall be issued under ORS 468A.575 and open burning, propane flaming and stack or pile burning shall be allowed for the maximum acreage specified in subsections (2), (3), (4) and (6) of this section unless the daily determination of suitability of meteorological conditions, regional or local air quality conditions or other burning conditions requires that a maximum number of acres not be burned on a given day.

(10) Upon a finding of danger to public health or safety, the commission may order temporary emergency cessation of all open field burning, propane flaming and stack or pile burning in any area of the counties listed in ORS 468A.560.

(11)(a) Notwithstanding subsection (8) of this section, the commission may by order permit emergency open burning, propane flaming or stack or pile burning of up to 2,000 acres each calendar year in addition to the acreage allowed under subsections (2), (3), (4) and (6) of this section, if the commission finds:

(A) Extreme hardship due to disease outbreak or insect infestation, as identified by the commission by rule, outweighs the dangers to public health and safety from emergency open burning, propane flaming or stack or pile burning;

(B) Authorization of additional acreage does not result in open burning, propane flaming or stack or pile burning of more acreage than required to address the emergency;

(C) Authorization of additional acreage is limited to the calendar year in which the commission makes the required findings; and

(D) All emergency open burning, propane flaming or stack or pile burning is otherwise consistent with ORS 468A.550 to 468A.620 and rules adopted under ORS 468A.550 to 468A.620.

(b) The commission by rule may assess fees for the acreage burned pursuant to this subsection. All fees collected under this subsection shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund for the purpose specified in ORS 468A.615 (2).

(12) The commission shall act on any application for a permit under ORS 468A.575 within 60 days of registration and receipt of the fee required under ORS 468A.615.

**SECTION 2. The amendments to ORS 468A.610 by section 1 of this 2010 Act apply to open burning occurring on or after the effective date of this 2010 Act.**

**SECTION 3. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.**

**Passed by House February 16, 2010**

.....  
Chief Clerk of House

.....  
Speaker of House

**Passed by Senate February 20, 2010**

.....  
President of Senate

**Received by Governor:**

.....M,....., 2010

**Approved:**

.....M,....., 2010

.....  
Governor

**Filed in Office of Secretary of State:**

.....M,....., 2010

.....  
Secretary of State