

SECOND REGULAR SESSION

HOUSE BILL NO. 1077

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES LICHTENEGGER (Sponsor) AND SWAN (Co-sponsor).

4512H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 44.080 and 49.266, RSMo, and to enact in lieu thereof two new sections relating to burn ban orders, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 44.080 and 49.266, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 44.080 and 49.266, to read as follows:

44.080. 1. Each political subdivision of this state shall establish a local organization for disaster planning in accordance with the state emergency operations plan and program. The executive officer of the political subdivision shall appoint a coordinator who shall have direct responsibility for the organization, administration and operation of the local emergency management operations, subject to the direction and control of the executive officer or governing body. Each local organization for emergency management shall be responsible for the performance of emergency management functions within the territorial limits of its political subdivision, and may conduct these functions outside of the territorial limits as may be required pursuant to the provisions of this law.

2. In carrying out the provisions of this law, each political subdivision may:

(1) Appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons; the safety of property; and direct and coordinate the development of disaster plans and programs in accordance with the policies and plans of the federal and state governments; [and]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (2) Appoint, provide, or remove rescue teams, auxiliary fire and police personnel and
17 other emergency operations teams, units or personnel who may serve without compensation[.]
18 ; and

19 (3) **Adopt orders or resolutions with penalties as these specifically relate to the**
20 **actual or impending occurrence of a natural disaster of major proportions within the**
21 **county when the safety and welfare of the inhabitants of such county are jeopardized. Such**
22 **orders or resolutions may include the issuance of burn ban orders carrying penalties as**
23 **specified in subsection 2 of section 44.130 if there is a Keetch-Byram Drought Index of 625**
24 **or more. The violations of such order or resolution shall be an infraction, except that state**
25 **agencies responsible for fire management or suppression activities and persons conducting**
26 **agricultural burning using best management practices shall not be subject to the provisions**
27 **of this subsection. The ability of an individual, organization, or corporation to sell**
28 **fireworks shall not be affected by the issuance of a burn ban order.**

49.266. 1. The county commission in all counties of the first, second or fourth
2 classification may by order or ordinance promulgate reasonable regulations concerning the use
3 of county property, the hours, conditions, methods and manner of such use and the regulation of
4 pedestrian and vehicular traffic and parking thereon.

5 2. [Violation of any regulation so adopted under subsection 1 of this section is an
6 infraction.

7 3. Upon a determination by the state fire marshal that a burn ban order is appropriate for
8 a county because:

9 (1) An actual or impending occurrence of a natural disaster of major proportions within
10 the county jeopardizes the safety and welfare of the inhabitants of such county; and

11 (2) The U.S. Drought Monitor has designated the county as an area of severe, extreme,
12 or exceptional drought, the county commission may adopt an order or ordinance issuing a burn
13 ban, which may carry a penalty of up to a class A misdemeanor. State agencies responsible for
14 fire management or suppression activities and persons conducting agricultural burning using best
15 management practices shall not be subject to the provisions of this subsection. The ability of an
16 individual, organization, or corporation to sell fireworks shall not be affected by the issuance of
17 a burn ban. The county burn ban may prohibit the explosion or ignition of any missile or
18 skyrocket as the terms "missile" and "skyrocket" are defined by the 2012 edition of the American
19 Fireworks Standards Laboratory, but shall not ban the explosion or ignition of any other
20 consumer fireworks as the term "consumer fireworks" is defined under section 320.106] **The**
21 **county commission in all counties may, by order, promulgate reasonable regulations**
22 **concerning its emergency management functions and operations and conditions controls,**
23 **as they specifically relate to the actual occurrence of a natural disaster within the county**

24 when the health, safety, or welfare of the inhabitants of such county are threatened by
25 actual or impending circumstances. The regulations may include the issuance of burn ban
26 orders carrying penalties as specified in subsection 2 of section 44.130 and monetary fines
27 as established by the county commission, if there is a Keetch-Byram Drought Index of 65
28 or more, except that state agencies responsible for fire management or suppression
29 activities and persons conducting agricultural burning using best management practices
30 shall not be subject to the provisions of this subsection. The ability of an individual,
31 organization, or corporation to sell fireworks shall not be affected by the issuance of a burn
32 ban order.

33 3. Violation of any regulation so adopted is an infraction or may be as provided in
34 subsection 2 of section 44.130 as specified in the adopted regulation.

35 4. The regulations so adopted shall be codified, printed and made available for public
36 use and adequate signs concerning smoking, traffic and parking regulations shall be posted.

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