MISSISSIPPI LEGISLATURE REGULAR SESSION 2005

By: Representative Shows

To: Forestry

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 620

AN ACT TO AMEND SECTION 49-19-3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE MISSISSIPPI FORESTRY COMMISSION LAW ENFORCEMENT OFFICERS TO ISSUE CITATIONS FOR ANY VIOLATION OF THOSE LAWS DESIGNED FOR THE PROTECTION FROM FIRE RECKLESSLY OR WITH GROSS NEGLIGENCE BEING COMMUNICATED ON THE LANDS OF ANOTHER; TO AMEND SECTION 97-17-13, MISSISSIPPI CODE OF 1972, TO REVISE THE PENALTY FOR PERSONS CONVICTED OF BURNING THE LANDS OF ANOTHER DUE TO RECKLESSNESS OR GROSS NEGLIGENCE; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 49-19-3, Mississippi Code of 1972, is amended as follows:

49-19-3. The duties and powers of the commission shall be:

(a) To appoint a State Forester, who shall serve at the will and pleasure of the commission and who is qualified to perform the duties as set forth herein; and to pay him such salary as is provided by the Legislature, and allow him such office expenses incidental to the performance of his official duties as the commission, in its discretion, may deem necessary; and to charge him with the immediate direction and control, subject to the supervision and approval of the commission, of all matters relating to forestry as authorized herein. Any person appointed by the commission as State Forester shall have received a bachelor's degree in forestry from an accredited school or college of forestry and shall be licensed and registered under the provisions of the Mississippi Foresters Registration Law (Section 73-36-1 et seq.) and in addition shall have had at least five (5) years' administrative experience in a forestry-related field.

(b) To take such action and provide and maintain such organized means as may seem necessary and expedient to prevent, control and extinguish forest fires, including the enforcement of

any and all laws pertaining to the protection of forests and woodland.

(c) To encourage forest and tree planting for the production of a wood crop, for the protection of water supply, for windbreak and shade, or for any other beneficial purposes contributing to the general welfare, public hygiene and comfort of the people.

(d) To cause to be made such technical investigations and studies concerning forest conditions, the propagation, care and protection of forest and shade trees, the care and management of forests, their growth, yield and the products and by-products thereof, and any other competent subject, including forest taxation, bearing on the timber supply and needs of the state, which the commission, in its discretion, may deem proper.

(e) To assist and cooperate with any federal or state department or institution, county, town, corporation or individual, under such terms as in the judgment of the commission will best serve the public interest, in the preparation and execution of plans for the protection, management, replacement, or extension of the forest, woodland and roadside or other ornamental tree growth in the state.

(f) To encourage public interest in forestry by means of correspondence, the public press, periodicals, the publication of bulletins and leaflets for general distribution, the delivery of lectures in the schools and other suitable means, and to cooperate to the fullest extent with the extension department services of the state colleges in promoting reforestation. It shall be the duty of the State Forester to cooperate with private timber owners in laying plans for the protection, management and replacement of forests and in aiding them to form protection associations. It shall be his duty to examine all timbered lands belonging to the state and its institutions and report to the commission upon their timber conditions and actual value, and also

whether some of these lands may not be held as state forests. He shall be responsible for the protection and management of lands donated, purchased or belonging to the state or state institutions, and all other lands reserved by the state as state forests.

(g) To control the expenditure of any and all funds appropriated or otherwise made available for the several purposes set forth herein under suitable regulations and restrictions by the commission and to specifically authorize any officer or employee of the commission to incur necessary and stipulated expenses in connection with the work in which such person may be engaged.

(h) To submit annually to the Legislature a report of the expenditures, proceedings and results achieved, together with such other matters including recommendations concerning legislation as are germane to the aims and purposes of this chapter.

(i) To create, establish and organize the State of Mississippi into forestry districts for the most effective and efficient administration of the commission.

(j) To appoint, upon the State Forester's recommendation, six (6) individuals who shall be designated Mississippi Forestry Commission Law Enforcement Officers with authority to bear arms, investigate and make arrests; however, the law enforcement duties and authority of the officers shall be limited to woods arson. The officers shall comply with applicable minimum educational and training standards for law enforcement officers. These officers may issue citations for any violation of those laws designed for the protection from fire recklessly or with gross negligence being communicated on the lands of another. A citation issued by a Forestry Commission law enforcement officer shall be issued on a uniform citation form consisting of an original and at least two (2) copies. Such citation shall show,

among other necessary information, the name of the issuing officer, the name of the court in which the cause is to be heard and the date and time the person charged with a violation is to appear to answer the charge. The uniform citation form shall make a provision on it for information that will constitute a complaint charging the offense for which the citation was issued and, when duly sworn to and filed with a court of competent jurisdiction, prosecution may proceed under that complaint. For the purposes of this section, the fact that any person is found to have a brush or debris pile or other material which is or was being burned and reasonable and prudent efforts were not taken to prevent the spread of the fire and from which fire communicated on the lands of another shall be evidence that such person recklessly or with gross negligence caused the land to burn.

This subsection shall stand repealed on June 30, 2006.

SECTION 2. Section 97-17-13, Mississippi Code of 1972, is amended as follows:

97-17-13. If any person willfully, maliciously, and feloniously sets on fire any woods, meadow, marsh, field or prairie, not his own, he shall be guilty of a felony and shall, upon conviction, be sentenced to the State Penitentiary for not more than two (2) years nor less than one (1) year, or fined not less than Two Hundred Dollars ($200.00) nor more than One Thousand Dollars ($1,000.00), or both, in the discretion of the court.

Provided, however, if any person recklessly or with gross negligence causes fire to be communicated to any woods, meadow, marsh, field or prairie, not his own, he shall be guilty of a misdemeanor and shall, on conviction, be fined not less than One Hundred Dollars ($100.00) nor more than Five Hundred Dollars ($500.00), or imprisoned in the county jail not more than three (3) months, or both, in the discretion of the court. For the purposes of this section, the fact that any person is found to have a brush or debris pile or other material which is or was

being burned and reasonable and prudent efforts were not taken to prevent the spread of the fire and from which fire communicated on the lands of another shall be evidence that such person recklessly or with gross negligence caused the land to burn.

In addition to the fines provided herein, upon conviction, a person shall be ordered to reimburse and pay in restitution directly to any organized fire suppression agency recognized by the Mississippi Forestry Commission all the costs the agency incurred related to the suppression and abatement of the fire.

This section shall stand repealed on July 1, 2007.

SECTION 3. This act shall take effect and be in force from and after July 1, 2005.