

BILL ANALYSIS

Senate Research Center
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H.B. 2599
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Natural Resources
5/7/1999
Committee Report (Amended)

DIGEST

Currently, a landowner in Texas has the right to use prescribed burning as a land management tool. This practice is used as a means to reduce vegetative fuels, which, if not managed, can cause flare-ups that can lead to wildfires. Landowners may be hesitant to use this method for fear of liability for accidents. Wildfires pose a serious threat to the state, particularly to suburban areas. H.B. 2599 would establish conditions regarding prescribed burning.

PURPOSE

As proposed, H.B. 2599 establishes conditions regarding prescribed burning.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 9, Natural Resources Code, by adding Chapter 153, as follows:

CHAPTER 153. PRESCRIBED BURNING

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 152.001. DEFINITION. Defines "board."

Sec. 153.002. LANDOWNER'S RIGHT TO CONDUCT BURNS NOT LIMITED. Provides that this chapter does not limit a landowner's right to conduct burns on the landowner's property.

Sec. 153.003. LIABILITY. Provides that this chapter does not modify a landowner's liability for property damage, personal injury, or death resulting from a burn that is not conducted as provided by this chapter.

Sec. 153.004. FAILURE TO USE MANAGER NOT ADMISSIBLE TO ESTABLISH LIABILITY. Prohibits the failure of a person to use a certified prescribed burn manager to conduct a burn from being introduced into evidence in any administrative or judicial proceeding to establish liability of the person for any property damage or for injury or death to persons caused by or resulting from the burn.

SUBCHAPTER B. PRESCRIBED BURNING BOARD

Sec. 153.041. ESTABLISHMENT. Provides that the Prescribed Burning Board (board) is established within the Department of Agriculture (department) and is composed of certain individuals. Provides that a member serves for a two-year term. Requires the board, by majority vote, to elect a presiding officer from the members of the board. Requires appointments to the board to be made without regard to the race, creed, sex, disability, age, religion, or national origin of the appointees. Sets forth grounds for removal from the board. Provides that the validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a member of the board existed.

Sec. 153.042. INFORMATION RELATING TO STANDARDS OF CONDUCT. Requires the

presiding officer of the board or the presiding officer's designee to provide to members of the board information regarding their qualifications for office and responsibilities relating to standards of conduct for state officers.

Sec. 153.043. MEMBER TRAINING. Provides that a person appointed to the board is not eligible for membership unless the person completes at least one training program. Sets forth requirements for the information provided by the training program. Entitles a person appointed to the board to reimbursement for travel expenses incurred in attending the training program.

Sec. 153.044. SUNSET PROVISION. Provides that the board is subject to Chapter 325, Government Code. Establishes that unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2009.

Sec. 153.045. ADVISORY BOARD. Requires the board to establish an advisory board of members of the public, including individuals representing certain entities. Requires the board to determine the number of persons and manner of selection of the advisory board.

Sec. 153.046. DUTIES. Sets forth the duties of the board.

Sec. 153.047. PRESCRIBED BURNING STANDARDS. Sets forth requirements regarding the minimum standards established by the board for prescribed burning.

Sec. 153.048. CERTIFICATION OF PRESCRIBED BURN MANAGERS. Requires the minimum standards established by the board for certification as a prescribed burn manager to require the completion of the approved training curriculum to be developed and promulgated by the board and taught by an approved instructor. Requires the board to certify a person as a prescribed burn manager if the person fulfills certain conditions. Provides that the certificate is for five years. Authorizes a person to renew certification only by completing a continuing education program established by the board. Requires the board to maintain a register of certified prescribed burn managers and dates of completion of initial and continuing training.

SUBCHAPTER C. LIMITATIONS ON LIABILITY

Sec. 153.081. LIMITATION OF OWNER LIABILITY. Provides that an owner, lessee, or occupant of agricultural land, subject to Section 153.082, is not liable for property damage or for injury or death to persons caused by or resulting from prescribed burning conducted on the land owned by, leased by, or occupied by the person if the prescribed burning is conducted under the supervision of a certified prescribed burn manager. Provides that this section does not apply to an owner, lessee, or occupant of agricultural land who is a certified prescribed burn manager and conducts a burn on that land. Defines "agricultural land."

Sec. 153.082. INSURANCE. Provides that the limitation on liabilities does not apply to an owner, lessee, or occupant of agricultural land if the certified prescribed burn manager conducting a burn on the land does not have liability insurance coverage in effect as required by this section. Establishes that Section 153.081 applies to limit the liability of an owner, lessee, or occupant of agricultural land to \$1 million for property damage or for injury or death to persons caused by or resulting from each burn if the certified prescribed burn manager has liability insurance coverage in effect for at least that amount.

SECTION 2. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 3. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Chapter 153A, Natural Resources Code, by adding Section 153.004, to establish that the failure to use a manager is not admissible to establish liability. Makes a nonsubstantive change.

Amends Section 153.041, Natural Resources Code, to include on the Prescribed Burning Board an employee of the Texas Tech University Range and Wildlife Department appointed by the dean of the Texas Tech University College of Agriculture Sciences and Natural Resources, and five persons who fulfill certain conditions. Makes conforming changes.

Amends Section 153.081, Natural Resources Code, by adding a new Subsection (b), to provide that this section does not apply to an owner, lessee, or occupant of agricultural land who is a certified prescribed burn manager and conducts a burn on that land. Reletters subsequent subsection. Makes a conforming change.

Amends Chapter 153C, Natural Resources Code, by adding Section 153.082, to establish conditions regarding insurance and limitations on liability.