

By: Oliveira, Lucio III, Anderson

H.B. No. 2623

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of certain counties and the General Land
3 Office to temporarily close a beach or beach access point.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 61.001, Natural Resources Code, is
6 amended by adding Subdivision (4-a) to read as follows:

7 (4-a) "Launch" and "space flight activities" have the
8 meanings assigned by Section 100A.001, Civil Practice and Remedies
9 Code.

10 SECTION 2. Section 61.011(d), Natural Resources Code, is
11 amended to read as follows:

12 (d) The commissioner shall promulgate rules, consistent
13 with the policies established in this section, on the following
14 matters only:

15 (1) acquisition by local governments or other
16 appropriate entities or public dedication of access ways sufficient
17 to provide adequate public ingress and egress to and from the beach
18 within the area described in Subdivision (6);

19 (2) protection of the public easement from erosion or
20 reduction caused by development or other activities on adjacent
21 land and beach cleanup and maintenance;

22 (3) local government prohibitions of vehicular
23 traffic on public beaches, provision of off-beach parking, the use
24 on a public beach of a golf cart, as defined by Section 502.001,

1 Transportation Code, for the transportation of a person with a
2 physical disability, and other minimum measures needed to mitigate
3 for any adverse effect on public access and dune areas;

4 (4) imposition of beach access, user, or parking fees
5 and reasonable exercises of the police power by local governments
6 with respect to public beaches;

7 (5) contents and certification of beach access and use
8 plans and standards for local government review of construction on
9 land adjacent to and landward of public beaches, including
10 procedures for expedited review of beach access and use plans under
11 Section 61.015;

12 (6) construction on land adjacent to and landward of
13 public beaches and lying in the area either up to the first public
14 road generally parallel to the beach or to any closer public road
15 not parallel to the beach, or to within 1,000 feet of mean high
16 tide, whichever is greater, that affects or may affect public
17 access to and use of public beaches;

18 (7) the temporary suspension under Section 61.0185 of
19 enforcement of the prohibition against encroachments on and
20 interferences with the public beach easement and the ability of a
21 property owner to make repairs to a house while a suspension is in
22 effect;

23 (8) the determination of the line of vegetation or
24 natural line of vegetation;

25 (9) the factors to be considered in determining
26 whether a structure, improvement, obstruction, barrier, or hazard
27 on the public beach:

1 (A) constitutes an imminent hazard to safety,
2 health, or public welfare; or

3 (B) substantially interferes with the free and
4 unrestricted right of the public to enter or leave the public beach
5 or traverse any part of the public beach; ~~and~~

6 (10) the procedures for determining whether a
7 structure is not insurable property for purposes of Section
8 2210.004, Insurance Code, because of the factors listed in
9 Subsection (h) of that section; and

10 (11) the closure of beaches for space flight
11 activities.

12 SECTION 3. Subchapter D, Chapter 61, Natural Resources
13 Code, is amended by adding Section 61.132 to read as follows:

14 Sec. 61.132. CLOSING OF BEACHES FOR SPACE FLIGHT
15 ACTIVITIES. (a) This section applies only to a county bordering on
16 the Gulf of Mexico or its tidewater limits that contains a launch
17 site the construction and operation of which have been approved in a
18 record of decision issued by the Federal Aviation Administration
19 following the preparation of an environmental impact statement by
20 that administration.

21 (b) A person planning to conduct a launch in a county to
22 which this section applies must submit to the commissioners court
23 proposed primary and backup launch dates for the launch.

24 (c) To protect the public health, safety, and welfare, the
25 commissioners court by order may temporarily close a beach in
26 reasonable proximity to the launch site or access points to the
27 beach in the county on a primary or backup launch date, subject to

1 Subsection (d).

2 (d) The commissioners court may not close a beach or access
3 points to the beach on a primary launch date consisting of any of
4 the following days without the approval of the land office:

5 (1) the Saturday or Sunday preceding Memorial Day;

6 (2) Memorial Day;

7 (3) July 4;

8 (4) Labor Day; or

9 (5) a Saturday or Sunday that is after Memorial Day but
10 before Labor Day.

11 (e) The commissioners court must comply with the county's
12 beach access and use plan adopted and certified under Section
13 61.015 and dune protection plan adopted and certified under Chapter
14 63 when closing a beach or access point under this section.

15 (f) The land office may:

16 (1) approve or deny a beach or access point closure
17 request under Subsection (d);

18 (2) enter into a memorandum of agreement with the
19 commissioners court of a county to which this section applies to
20 govern beach and access point closures made under this section; and

21 (3) adopt rules to govern beach and access point
22 closures made under this section.

23 SECTION 4. This Act takes effect immediately if it receives
24 a vote of two-thirds of all the members elected to each house, as
25 provided by Section 39, Article III, Texas Constitution. If this
26 Act does not receive the vote necessary for immediate effect, this
27 Act takes effect September 1, 2013.