

By: Nichols

S.B. No. 1267

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the liability of individuals providing labor or
3 assistance to the Texas Forest Service in the performance of
4 certain fire suppression duties.

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

6 SECTION 1. Section 88.104, Education Code, is amended to
7 read as follows:

8 Sec. 88.104. AUTHORITY TO ENTER PRIVATE LAND.

9 (a) Authority is hereby granted to every employee of the Texas
10 Forest Service and any outside labor or assistance the employee
11 deems necessary to enter upon any privately-owned land in the
12 performance of fire suppression duties which are by state law under
13 the direction of the director. These entries on privately-owned
14 land may be made whenever it is necessary to investigate forest and
15 grass fires and to ascertain whether they are burning uncontrolled,
16 and whenever it is necessary to suppress forest and grass fires that
17 are known to be burning uncontrolled.

18 (b) An individual providing labor or assistance to the Texas
19 Forest Service under Subsection (a) is not liable for civil
20 damages, including personal injury, wrongful death, property
21 damage, death, or other loss resulting from any act, error, or
22 omission by the individual in providing that labor or assistance
23 unless the act, error, or omission:

24 (1) proximately caused the loss; and

1 (2) was performed with malice or constitutes gross
2 negligence, recklessness, or intentional misconduct.

3 SECTION 2. Subsection (b), Section 88.104, Education Code,
4 as added by this Act, applies only to an act, error, or omission
5 that occurs on or after the effective date of this Act.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2013.