

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. (a)  
9 Authority is hereby granted to every employee of the Texas Forest  
10 Service and any outside labor or assistance the employee deems  
11 necessary to enter upon any privately-owned land in the performance  
12 of fire suppression duties which are by state law under the  
13 direction of the director. These entries on privately-owned land  
14 may be made whenever it is necessary to investigate forest and grass  
15 fires and to ascertain whether they are burning uncontrolled, and  
16 whenever it is necessary to suppress forest and grass fires that are  
17 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. Section 88.104(b), Education Code, as added by  
4 this Act, applies only to an act, error, or omission that occurs on  
5 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.