

By: Bailes

H.B. No. 2567

Substitute the following for H.B. No. 2567:

By: Cyrier

C.S.H.B. No. 2567

A BILL TO BE ENTITLED

AN ACT

relating to forest pest control.

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

SECTION 1. Section 152.001, Natural Resources Code, is amended to read as follows:

Sec. 152.001. POLICY. It is the public policy of the State of Texas to mitigate and control ~~[forest]~~ pests ~~[in or]~~ threatening forest land ~~[forests]~~ in this state in order to protect associated ecological ~~[forest]~~ resources, enhance the health ~~[growth]~~ and maintenance of forests, promote stability of forest-using industries, ensure public safety ~~[protect recreational wildlife uses]~~, and conserve the ecosystem ~~[other]~~ values of the forest.

SECTION 2. Sections 152.003(1), (2), (3), (6), and (7), Natural Resources Code, are amended to read as follows:

(1) "Service" means the Texas A&M Forest Service.

(2) "Forest pests" means native insects and diseases, nonnative invasive insects and diseases, and noxious and invasive plants included on a list under Section 71.151, Agriculture Code, that are harmful, injurious, or destructive to forests or trees and whose damage, if uncontrolled, is of considerable economic and environmental importance ~~[, and includes:~~

~~[(A) pine bark beetles of the genera Dendroctonus, Ips, Pissodes, and Hylebius,~~

~~[(B) sawflies of the genus Neodiprion,~~

1 ~~[(C) defoliators in the genera Datana,~~
2 ~~Malacosoma, Hyphantria, Diapheromera, and Calerucella;~~
3 ~~[(D) pine shoot moth of the genus Rhyacionia;~~
4 ~~[(E) wilt of the genus Chalera; and~~
5 ~~[(F) rots of the genera Fomes and Polyporus].~~

6 (3) "Forest land" means land with at least 10 percent
7 cover by live trees of any size, including land that formerly had
8 that amount of tree cover and will be naturally or artificially
9 regenerated ~~[on which the trees are potentially valuable for timber~~
10 ~~products, protection of watersheds, wildlife habitat, recreational~~
11 ~~uses, or for other purposes, but does not include land within the~~
12 ~~incorporated limits of a village, town, or city].~~

13 (6) "Infestation" means actual infestation or
14 infection at conditions beyond normal proportion causing [~~abnormal~~
15 ~~epidemic~~] loss to forests [~~present or future commercial timber~~
16 ~~supply or both~~].

17 (7) "Landowner" and "owner" mean a person who owns
18 forest land or has forest land under the person's [~~his~~] direction
19 irrespective of ownership.

20 SECTION 3. The heading to Subchapter B, Chapter 152,
21 Natural Resources Code, is amended to read as follows:

22 SUBCHAPTER B. POWERS AND DUTIES OF [~~THE~~] TEXAS A&M FOREST SERVICE

23 SECTION 4. Section 152.016, Natural Resources Code, is
24 amended to read as follows:

25 Sec. 152.016. PROCEDURES FOR CONTROL. [~~(a)~~] As soon as
26 practicable after the hearing, the service shall promulgate
27 procedures to be followed for the control of the infestation and

1 shall[+]

2 ~~[(1) mail a copy to all appearing at the hearing and to~~
3 ~~all to whom notices were originally sent, and~~

4 ~~[(2)]~~ publish a copy in a newspaper circulated in the
5 affected area in the same manner as publication of preliminary
6 notice.

7 ~~[(b) Publication as provided in Subsection (a) of this~~
8 ~~section is notice to each landowner and each tract of land in the~~
9 ~~affected area on the date of publication.]~~

10 SECTION 5. Sections 152.018(a), (b), and (c), Natural
11 Resources Code, are amended to read as follows:

12 (a) The notice required by Section 152.017 ~~[of this code]~~
13 shall inform the landowner of:

14 (1) the facts found to exist;

15 (2) the landowner's ~~[his]~~ responsibilities for the
16 control measures;

17 (3) the control technique recommended;

18 (4) the law under which control must be accomplished;

19 and

20 (5) the authority of the service in the event the
21 landowner takes no action toward controlling the pest.

22 (b) The notice may be given by:

23 (1) personal delivery to ~~[service on]~~ the landowner or
24 ~~[on]~~ the person having control of the forest land;

25 (2) registered or certified mail directed to the
26 landowner or person having control of the forest land at that
27 person's ~~[his]~~ last known address; or

1 (3) if the identity or [~~person or his~~] address of the
2 landowner or person having control of the forest land is unknown:

3 (A) [~~7~~] publication in one issue of a newspaper
4 of general circulation in the county in which the land is located;
5 or

6 (B) posting notice on the county's Internet
7 website or on a bulletin board at a place convenient to the public
8 in the county courthouse for the county in which the land is
9 located.

10 (c) A published or posted notice under Subsection (b) must
11 [~~of this section shall~~] include the information specified in
12 Subsection (a) [~~of this section~~], state the name of the owner, if
13 known, and briefly describe the land to which the notice applies.

14 SECTION 6. Section 152.019, Natural Resources Code, is
15 amended to read as follows:

16 Sec. 152.019. NOTICE TO FOREST OWNER. If the landowner has
17 notified the service of a forest owner under [~~given notice to the~~
18 ~~service of an interest in the forest on his land owned by another,~~
19 ~~as provided for in~~] Section 152.064 [~~of this code~~], the service
20 shall furnish the same information to the forest owner that it is
21 required by [~~the provisions of~~] this chapter to give to the
22 landowner.

23 SECTION 7. Section 152.020(a), Natural Resources Code, is
24 amended to read as follows:

25 (a) A landowner shall inform the [~~The~~] service of measures
26 taken [~~shall keep informed of what is done~~] by the landowner to
27 [~~take measures to~~] control the infestation and the results of those

1 measures [~~result of it~~].

2 SECTION 8. Section [152.021](#), Natural Resources Code, is
3 amended to read as follows:

4 Sec. 152.021. CONTROL MEASURES APPLIED BY [~~FOREST~~] SERVICE.

5 If the landowner or another person fails to apply the pest control
6 measures prescribed by the service not later than the 10th day after
7 the date [~~are not applied by the landowner or any other person~~
8 ~~within 10 days from the time~~] notice is given under Section [152.014](#)
9 or [152.018](#), [~~as provided in this chapter, exclusive of the date the~~
10 ~~notice is given, representatives of~~] the service may contact the
11 landowner to offer further assistance or may [~~shall~~] enter the land
12 and have the forest pests controlled [~~or destroyed~~].

13 SECTION 9. Section [152.022](#), Natural Resources Code, is
14 amended to read as follows:

15 Sec. 152.022. EXPENSE OF CONTROL MEASURES TAKEN BY SERVICE.

16 (a) The landowner shall pay [~~Except as provided in Subsection (b)~~
17 ~~of this section,~~] all charges and expenses of [~~destruction or~~
18 control measures taken by the service [~~shall be paid by the owner of~~
19 ~~the land on which the infestation occurred~~].

20 (b) The service shall charge amounts consistent with
21 current commercial rates for control measures taken [~~If the tract~~
22 ~~with respect to which the service conducted control measures~~
23 ~~contains 50 acres of forest land or less and the landowner in whose~~
24 ~~name the record title to the land stands owns no more than 50 acres~~
25 ~~of forest land in the county in which the infestation occurred, the~~
26 ~~cost of control shall be borne~~] by the service.

27 SECTION 10. Section [152.023](#), Natural Resources Code, is

1 amended to read as follows:

2 Sec. 152.023. CLAIM AGAINST LANDOWNER. The amount charged
3 for [~~If~~] control measures taken [~~is undertaken~~] by the service [~~7~~
4 ~~the cost, not to exceed \$10 for each infested acre or part of an acre~~
5 ~~on which control measures have been employed,~~] constitutes a legal
6 claim against the landowner, but does not constitute a lien on any
7 land owned by the landowner.

8 SECTION 11. Section [152.025](#), Natural Resources Code, is
9 amended to read as follows:

10 Sec. 152.025. LANDOWNER REIMBURSEMENT. (a) If the
11 landowner has notified the service of a forest owner under Section
12 152.064, the landowner is entitled to reasonable reimbursement from
13 the forest owner [~~given the service notice of an interest owned by~~
14 ~~another in the forest on his land and the landowner has made~~
15 ~~expenditures~~] for amounts:

16 (1) spent by the landowner for pest control measures
17 under [~~purposes as provided in~~] Section [152.062](#); or

18 (2) [of this code, or has] paid on a legal claim
19 [~~against him~~] under [~~the provisions of~~] Sections [152.022](#) through
20 [152.024](#) [~~of this code, the landowner is entitled to a reasonable~~
21 ~~reimbursement for the expenses from the forest owner~~].

22 (b) The amount of reimbursement paid by a forest owner under
23 Subsection (a) shall be proportional to the interest owned in the
24 forest by the forest owner.

25 SECTION 12. Section [152.061](#), Natural Resources Code, is
26 amended to read as follows:

27 Sec. 152.061. GENERAL DUTY OF LANDOWNER. Each owner of

1 forest land shall control the forest pests on land owned by the
2 person [~~him~~] or under the person's [~~his~~] direction as provided in
3 this chapter.

4 SECTION 13. Section [152.062](#), Natural Resources Code, is
5 amended to read as follows:

6 Sec. 152.062. DUTY TO APPLY CONTROL MEASURES. Not later
7 than the 10th day after the date [~~Within 10 days after~~] notice is
8 given under [~~as provided in~~] Section [152.014](#) or [152.018](#) [~~of this~~
9 ~~code, exclusive of the date the notice is given~~], each affected
10 landowner shall commence diligently to take measures to control the
11 infestation as prescribed and continue this activity with all
12 practical expedition and efficiency under the direction of the
13 service.

14 SECTION 14. Section [152.063](#)(a), Natural Resources Code, is
15 amended to read as follows:

16 (a) The landowner shall notify the service of the
17 landowner's [~~his~~] actions and the result of those [~~his~~] actions.

18 SECTION 15. Section [152.064](#), Natural Resources Code, is
19 amended to read as follows:

20 Sec. 152.064. NOTIFYING SERVICE OF FOREST OWNER. If all or
21 part of the standing trees are owned by someone other than the
22 landowner, either by a present right or by a future right under the
23 terms of a valid existing contract, the landowner shall notify the
24 service of that fact and furnish the name and address [~~names and~~
25 ~~addresses~~] of each [~~the~~] forest owner not later than the 10th day
26 after the date the landowner receives [~~within 10 days after~~
27 ~~receiving the~~] notice from the service under [~~as provided for in~~]

1 Section 152.014 or 152.018 [~~of this code~~].

2 SECTION 16. Section 152.105, Natural Resources Code, is
3 amended to read as follows:

4 Sec. 152.105. INJUNCTIVE RELIEF FOR LANDOWNER. If the
5 final judgment in an action seeking relief from a notice is in favor
6 of the landowner, the landowner may be entitled to injunctive
7 relief against the use of any control measures on the landowner's
8 [~~his~~] forest land by the service until a [~~such~~] time determined by
9 [~~as~~] the court [~~may determine~~].

10 SECTION 17. Section 152.003(9), Natural Resources Code, is
11 repealed.

12 SECTION 18. This Act takes effect September 1, 2017.