

By: Hinojosa

S.B. No. 158

A BILL TO BE ENTITLED

AN ACT

relating to the creation of an open burn pit registry for certain service members and veterans.

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

SECTION 1. This Act shall be known as the Service Member and Veteran Open Burn Pit Registry Act.

SECTION 2. Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 99 to read as follows:

CHAPTER 99. OPEN BURN PIT REGISTRY

Sec. 99.001. DEFINITIONS. In this chapter:

(1) "Airborne hazard" means an airborne environmental contaminant, including open burn pit smoke, oil well fire smoke, sand, dust, or other particles, that may cause short-term or long-term health effects to a person exposed to the contaminant.

(2) "Open burn pit," also known as an "open air burn pit," means a site used for solid waste disposal by burning the waste in the outdoor air without the use of a commercially manufactured incinerator or other equipment specifically designed and manufactured for burning solid waste.

(3) "Service member" means an individual who is currently serving in:

(A) the armed forces of the United States;

(B) an auxiliary service of one of the armed forces of the United States, including the National Guard; or

1           (C) the state military forces as defined by  
2 Section 431.001, Government Code.

3           (4) "Veteran" means an individual who has served in:

4           (A) the armed forces of the United States;

5           (B) an auxiliary service of one of the armed  
6 forces of the United States, including the National Guard; or

7           (C) the state military forces as defined by  
8 Section 431.001, Government Code.

9           Sec. 99.002. RULES; MEMORANDUM OF UNDERSTANDING. The  
10 executive commissioner shall adopt the rules necessary to  
11 administer this chapter and may enter into a memorandum of  
12 understanding with the United States Department of Veterans Affairs  
13 as necessary to administer this chapter.

14           Sec. 99.003. OPEN BURN PIT REGISTRY. (a) For outreach,  
15 education, and advocacy related to exposure to open burn pit smoke  
16 or other airborne hazards by service members and veterans in this  
17 state, the department shall create and maintain an open burn pit  
18 registry of service members and veterans who were exposed to open  
19 burn pit smoke or other airborne hazards during their military  
20 service in:

21           (1) the Southwest Asia theater of operations on or  
22 after August 2, 1990;

23           (2) Operation Desert Shield or Desert Storm;

24           (3) Djibouti, Africa, on or after September 11, 2001;

25           (4) Operation Enduring Freedom, Iraqi Freedom, or New  
26 Dawn; or

27           (5) any other conflict or theater identified by the

1 United States Department of Veterans Affairs.

2 (b) The department shall include for each entry in the open  
3 burn pit registry:

4 (1) the service member's or veteran's name, address,  
5 phone number, and electronic address;

6 (2) the location of the service member's or veteran's  
7 service and the period of service;

8 (3) any medical condition or death of the service  
9 member or veteran that may be related to exposure to open burn pit  
10 smoke or other airborne hazards; and

11 (4) any other information that the department or the  
12 United States Department of Veterans Affairs considers necessary.

13 (c) The department shall:

14 (1) share the information included in the department's  
15 open burn pit registry with the United States Department of  
16 Veterans Affairs Airborne Hazards and Open Burn Pit Registry; and

17 (2) electronically link the open burn pit registry  
18 created under this chapter with the federal registry.

19 Sec. 99.004. VOLUNTARY REGISTRATION. A service member or  
20 veteran described by Section 99.003, or a family member of that  
21 service member or veteran, may voluntarily register a case of  
22 exposure to open burn pit smoke or other airborne hazards with the  
23 department for inclusion in the registry.

24 Sec. 99.005. CONFIDENTIALITY. Entries and information  
25 obtained under this chapter are confidential and are not subject to  
26 disclosure under Chapter 552, Government Code, are not subject to  
27 subpoena, and may not otherwise be released or made public except as

1 provided by this section or Section 99.003.

2 Sec. 99.006. OPEN BURN PIT INFORMATION. The department,  
3 with the assistance of the Texas Veterans Commission, shall develop  
4 and include on its Internet website information to inform service  
5 members, veterans, and their families about the:

6 (1) registration and use of the department's open burn  
7 pit registry and the United States Department of Veterans Affairs  
8 Airborne Hazards and Open Burn Pit Registry;

9 (2) most recent scientific developments on the health  
10 effects of exposure to open burn pit smoke and other airborne  
11 hazards and the status of any illness or condition that is presumed  
12 to be caused by exposure to open burn pit smoke or other airborne  
13 hazards as designated by the United States Department of Veterans  
14 Affairs;

15 (3) availability of any treatment offered by the  
16 United States Department of Veterans Affairs for an illness or  
17 condition that may be caused by exposure to open burn pit smoke or  
18 other airborne hazards;

19 (4) process for applying to the United States  
20 Department of Veterans Affairs for service-related disability  
21 compensation for an illness or condition that may be related to  
22 exposure to open burn pit smoke or other airborne hazards,  
23 including the methods for documenting the illness or condition; and

24 (5) manner of appealing to the United States  
25 Department of Veterans Affairs an existing service-related  
26 disability rating decision or requesting an increased  
27 service-related disability rating based on an illness or condition

1 that may be related to exposure to open burn pit smoke or other  
2 airborne hazards.

3 Sec. 99.007. REPORT. Not later than December 1 of each  
4 even-numbered year following the creation of the registry, the  
5 department shall submit a report to the appropriate standing  
6 committees of the house of representatives and senate that  
7 includes:

8 (1) an assessment of the effectiveness of collection  
9 and maintenance of information on the health effects of exposure to  
10 open burn pit smoke and other airborne hazards; and

11 (2) any recommendation to improve the collection and  
12 maintenance of information about the health effects of exposure to  
13 open burn pit smoke and other airborne hazards.

14 SECTION 3. (a) Not later than March 1, 2018, the executive  
15 commissioner of the Health and Human Services Commission shall  
16 adopt the rules and enter into any memorandum of understanding  
17 necessary to administer this Act.

18 (b) Notwithstanding Section 99.007, Health and Safety Code,  
19 as added by this Act, not later than December 1, 2018, the  
20 Department of State Health Services shall submit an initial report  
21 under that section.

22 SECTION 4. This Act takes effect September 1, 2017.