

House Bill 2567
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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 Hylobius;~~

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

~~[(C) defoliators in the genera Datana, Malacosoma, Hyphantria, Diapheromera, and Galerucella;~~

~~[(D) pine shoot moth of the genus Rhyacionia;~~

~~[(E) wilt of the genus Chalora; and~~

~~[(F) rots of the genera Fomes and Polyporus].~~

(3) "Forest land" means land with at least 10 percent cover by live trees of any size, including land that formerly had that amount of tree cover and will be naturally or artificially regenerated ~~[on which the trees are potentially valuable for~~

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SECTION 1. Same as House version.

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~~[(C) defoliators in the genera Datana, Malacosoma, Hyphantria, Diapheromera, and Galerucella;~~

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~~timber products, protection of watersheds, wildlife habitat, recreational uses, or for other purposes, but does not include land within the incorporated limits of a village, town, or city].~~

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

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

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

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

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

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

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

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

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

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

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~~timber products, protection of watersheds, wildlife habitat, recreational uses, or for other purposes], but does not include land within the incorporated limits of a village, town, or city.~~

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

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

SECTION 3. Same as House version.

SECTION 4. Same as House version.

SECTION 5. Same as House version.

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

- (1) the facts found to exist;
- (2) the landowner's [~~his~~] responsibilities for the control measures;
- (3) the control technique recommended;
- (4) the law under which control must be accomplished; and
- (5) the authority of the service in the event the landowner takes no action toward controlling the pest.

(b) The notice may be given by:

- (1) personal delivery to [~~service on~~] the landowner or [~~on~~] the person having control of the forest land;
- (2) registered or certified mail directed to the landowner or person having control of the forest land at that person's [~~his~~] last known address; or
- (3) if the identity or [~~person or his~~] address of the landowner or person having control of the forest land is unknown:
 - (A) [~~;~~] publication in one issue of a newspaper of general circulation in the county in which the land is located; or
 - (B) posting notice on the county's Internet website or on a bulletin board at a place convenient to the public in the county courthouse for the county in which the land is located.

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

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

Sec. 152.019. NOTICE TO FOREST OWNER. If the landowner has notified the service of a forest owner under

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SECTION 6. Same as House version.

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~~[given notice to the service of an interest in the forest on his land owned by another, as provided for in] Section 152.064 [of this code], the service shall furnish the same information to the forest owner that it is required by [the provisions of] this chapter to give to the landowner.~~

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

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

SECTION 8. Section 152.021, Natural Resources Code, is amended to read as follows:

Sec. 152.021. CONTROL MEASURES APPLIED BY ~~[FOREST]~~ SERVICE. If the landowner or another person fails to apply the pest control measures prescribed by the service not later than the 10th day after the date [are not applied by the landowner or any other person within 10 days from the time] notice is given under Section 152.014 or 152.018, [as provided in this chapter, exclusive of the date the notice is given, representatives of] the service may contact the landowner to offer further assistance or may [shall] enter the land and have the forest pests controlled [or destroyed].

SECTION 9. Section 152.022, Natural Resources Code, is amended to read as follows:

Sec. 152.022. EXPENSE OF CONTROL MEASURES TAKEN BY SERVICE. (a) The landowner shall pay [Except as provided in Subsection (b) of this section,] all charges and expenses of [destruction or] control measures taken by the

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SECTION 7. Same as House version.

SECTION 8. Same as House version.

SECTION 9. Same as House version.

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service ~~[shall be paid by the owner of the land on which the infestation occurred].~~

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

SECTION 10. Section 152.023, Natural Resources Code, is amended to read as follows:

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

SECTION 11. Section 152.025, Natural Resources Code, is amended to read as follows:

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

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

(2) ~~[of this code, or has]~~ paid on a legal claim ~~[against him]~~

SECTION 10. Same as House version.

SECTION 11. Same as House version.

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under ~~[the provisions of]~~ Sections 152.022 through 152.024 ~~[of this code, the landowner is entitled to a reasonable reimbursement for the expenses from the forest owner].~~

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

SECTION 12. Section 152.061, Natural Resources Code, is amended to read as follows:

Sec. 152.061. GENERAL DUTY OF LANDOWNER. Each owner of forest land shall control the forest pests on land owned by the person ~~[him]~~ or under the person's ~~[his]~~ direction as provided in this chapter.

SECTION 12. Same as House version.

SECTION 13. Section 152.062, Natural Resources Code, is amended to read as follows:

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

SECTION 13. Same as House version.

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

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

SECTION 14. Same as House version.

SECTION 15. Section 152.064, Natural Resources Code, is amended to read as follows:

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Sec. 152.064. NOTIFYING SERVICE OF FOREST OWNER. If all or part of the standing trees are owned by someone other than the landowner, either by a present right or by a future right under the terms of a valid existing contract, the landowner shall notify the service of that fact and furnish the name and address [~~names and addresses~~] of each [~~the~~] forest owner not later than the 10th day after the date the landowner receives [~~within 10 days after receiving the~~] notice from the service under [~~as provided for in~~] Section 152.014 or 152.018 [~~of this code~~].

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

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

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

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

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SECTION 16. Same as House version.

SECTION 17. Same as House version.

SECTION 18. Same as House version.

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