

1-1 By: Murr (Senate Sponsor - Flores) H.B. No. 2053  
1-2 (In the Senate - Received from the House April 23, 2019;  
1-3 April 29, 2019, read first time and referred to Committee on Water  
1-4 & Rural Affairs; May 19, 2019, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;  
1-6 May 19, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 2053 By: Rodríguez

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to individuals and organizations providing certain  
1-20 services and liability in connection with prescribed burns.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 352.081(f), Local Government Code, is  
1-23 amended to read as follows:

1-24 (f) This section does not apply to outdoor burning  
1-25 activities:

1-26 (1) related to public health and safety that are  
1-27 authorized by the Texas Commission on Environmental Quality for:

1-28 (A) firefighter training;

1-29 (B) public utility, natural gas pipeline, or  
1-30 mining operations; or

1-31 (C) planting or harvesting of agriculture crops;

1-32 or

1-33 (2) that are conducted by a certified and insured  
1-34 prescribed burn manager certified under Section 153.048, Natural  
1-35 Resources Code, and meet the standards of Section 153.047, Natural  
1-36 Resources Code [~~or~~

1-37 ~~(3) that are conducted by the members of a prescribed  
1-38 burning organization under the conditions provided by Section  
1-39 153.049, Natural Resources Code, and meet the standards of Section  
1-40 153.047, Natural Resources Code].~~

1-41 SECTION 2. Sections 153.004, 153.046, and 153.047, Natural  
1-42 Resources Code, are amended to read as follows:

1-43 Sec. 153.004. PRESCRIBED BURNING IN STATE OF EMERGENCY OR  
1-44 DISASTER. A certified and insured prescribed burn manager [~~or the  
1-45 members of a prescribed burning organization]~~ may conduct a burn in  
1-46 a county in which a state of emergency or state of disaster has been  
1-47 declared by the governor or the president of the United States,  
1-48 unless the declaration expressly prohibits all outdoor burning.

1-49 Sec. 153.046. DUTIES. The board shall:

1-50 (1) establish standards for prescribed burning;

1-51 (2) develop a comprehensive training curriculum for  
1-52 certified and insured prescribed burn managers;

1-53 (3) establish standards for certification,  
1-54 recertification, and training for certified and insured prescribed  
1-55 burn managers;

1-56 (4) establish minimum education and professional  
1-57 requirements for instructors for the approved curriculum; and

1-58 (5) establish insurance requirements for certified  
1-59 and insured prescribed burn managers in amounts not less than those  
1-60 required by Section 153.082 [~~and~~

2-1 ~~[(6) establish minimum insurance requirements for~~  
2-2 ~~prescribed burning organizations].~~

2-3 Sec. 153.047. PRESCRIBED BURNING STANDARDS. Minimum  
2-4 standards established by the board for prescribed burning must:

2-5 (1) ensure that prescribed burning is the controlled  
2-6 application of fire to naturally occurring or naturalized  
2-7 vegetative fuels under specified environmental conditions in  
2-8 accordance with a written prescription plan:

2-9 (A) designed to confine the fire to a  
2-10 predetermined area and to accomplish planned land management  
2-11 objectives; and

2-12 (B) that conforms to the standards established  
2-13 under this section;

2-14 (2) require that~~+~~  
2-15 ~~[(A)]~~ at least one certified and insured  
2-16 prescribed burn manager is present on site during the conduct of the  
2-17 prescribed burn; ~~or~~

2-18 ~~[(B) the burn be conducted by the members of a~~  
2-19 ~~prescribed burning organization;]~~

2-20 (3) establish appropriate guidelines for size of  
2-21 burning crews sufficient to:

2-22 (A) conduct the burn in accordance with the  
2-23 prescription plan; and

2-24 (B) provide adequate protection for the safety of  
2-25 persons and of adjacent property;

2-26 (4) include standards for notification to adjacent  
2-27 land owners, the Texas Commission on Environmental Quality, and  
2-28 local fire authorities; and

2-29 (5) include minimum insurance requirements for  
2-30 certified and insured prescribed burn managers ~~[and prescribed~~  
2-31 ~~burning organizations].~~

2-32 SECTION 3. Section 153.081(a), Natural Resources Code, is  
2-33 amended to read as follows:

2-34 (a) Subject to Section 153.082, an owner, lessee, or  
2-35 occupant of agricultural or conservation land is not liable for  
2-36 property damage or for injury or death to persons caused by or  
2-37 resulting from prescribed burning conducted on the land owned by,  
2-38 leased by, or occupied by the person if the prescribed burning is  
2-39 conducted~~+~~

2-40 ~~[(1)]~~ under the supervision of a certified and insured  
2-41 prescribed burn manager~~+, or~~

2-42 ~~[(2) by the members of a prescribed burning~~  
2-43 ~~organization].~~

2-44 SECTION 4. Section 153.082, Natural Resources Code, is  
2-45 amended to read as follows:

2-46 Sec. 153.082. INSURANCE. The limitation on liability under  
2-47 Section 153.081 does not apply to an owner, lessee, or occupant of  
2-48 agricultural or conservation land unless:

2-49 (1) the burn is conducted under the supervision of a  
2-50 certified and insured prescribed burn manager who has liability  
2-51 insurance coverage:

2-52 (A) of at least \$1 million for each single  
2-53 occurrence of bodily injury or death, or injury to or destruction of  
2-54 property; and

2-55 (B) with a policy period minimum aggregate limit  
2-56 of at least \$2 million; or

2-57 (2) the owner, lessee, or occupant is a governmental  
2-58 unit, as that term is defined by Section 2259.001, Government Code,  
2-59 that has a self-insurance program that provides the amount of  
2-60 coverage required by Subdivision (1)~~+, or~~

2-61 ~~[(3) the burn is conducted by the members of a~~  
2-62 ~~prescribed burning organization that has insurance coverage in an~~  
2-63 ~~amount not less than the amount established by the board under~~  
2-64 ~~Section 153.046].~~

2-65 SECTION 5. Subchapter C, Chapter 153, Natural Resources  
2-66 Code, is amended by adding Section 153.083 to read as follows:

2-67 Sec. 153.083. LIABILITY REGARDING CERTAIN PRESCRIBED  
2-68 BURNS. (a) In this section, "burn boss" means an individual  
2-69 responsible for directing a prescribed burn under a written

3-1 prescription plan described by Section 153.047.  
3-2 (b) Except as provided by Subsection (c), if a prescribed  
3-3 burn is conducted in accordance with a written prescription plan  
3-4 described by Subsection (d) and Section 153.047, a person may be  
3-5 held liable for property damage, personal injury, or death caused  
3-6 by or resulting from the burn only if the person:  
3-7 (1) is the burn boss; and  
3-8 (2) is otherwise liable under other law.  
3-9 (c) Subject to Sections 153.081 and 153.082, a person other  
3-10 than the burn boss, including a person assisting or acting under the  
3-11 direction of the burn boss, may be held liable for property damage,  
3-12 personal injury, or death caused by or resulting from the burn only  
3-13 if the person:  
3-14 (1) commits gross negligence or intentionally causes  
3-15 the property damage, personal injury, or death; and  
3-16 (2) is otherwise liable under other law.  
3-17 (d) For purposes of this section, if the burn boss is not the  
3-18 owner, lessee, or occupant of the land on which the burn is  
3-19 conducted, the written prescription plan must include:  
3-20 (1) the signature of:  
3-21 (A) the burn boss; or  
3-22 (B) the owner, lessee, or occupant of the land on  
3-23 which the burn is conducted; and  
3-24 (2) a contract acknowledging liability.  
3-25 (e) Nothing in this section may be construed to create a  
3-26 cause of action or to create a standard of care, obligation, or duty  
3-27 that forms the basis of a cause of action.  
3-28 SECTION 6. Sections 153.001(3) and 153.049, Natural  
3-29 Resources Code, are repealed.  
3-30 SECTION 7. The change in law made by this Act applies only  
3-31 to a cause of action that accrues on or after the effective date of  
3-32 this Act. A cause of action that accrues before the effective date  
3-33 of this Act is governed by the law applicable to the cause of action  
3-34 immediately before the effective date of this Act, and that law is  
3-35 continued in effect for that purpose.  
3-36 SECTION 8. This Act takes effect September 1, 2019.

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