

By: Murr

H.B. No. 4395

A BILL TO BE ENTITLED

AN ACT

relating to prescribed burning.

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

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

(f) This section does not apply to outdoor burning activities:

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

(A) firefighter training;

(B) public utility, natural gas pipeline, or mining operations; or

(C) planting or harvesting of agriculture crops;

or

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

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

SECTION 2. Section 153.004, Natural Resources Code, is amended to read as follows:

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

7 SECTION 3. Section 153.046, Natural Resources Code, is
8 amended to read as follows:

9 Sec. 153.046. DUTIES. The board shall:

- 10 (1) establish standards for prescribed burning;
- 11 (2) develop a comprehensive training curriculum for
12 certified and insured prescribed burn managers;
- 13 (3) establish standards for certification,
14 recertification, and training for certified and insured prescribed
15 burn managers;
- 16 (4) establish minimum education and professional
17 requirements for instructors for the approved curriculum; and
- 18 (5) establish insurance requirements for certified
19 and insured prescribed burn managers in amounts not less than those
20 required by Section 153.082 [~~, and~~
21 [~~(6) establish minimum insurance requirements for~~
22 ~~prescribed burning organizations~~].

23 SECTION 4. Section 153.047, Natural Resources Code, is
24 amended to read as follows:

25 Sec. 153.047. PRESCRIBED BURNING STANDARDS. Minimum
26 standards established by the board for prescribed burning must:

- 27 (1) ensure that prescribed burning is the controlled

1 application of fire to naturally occurring or naturalized
2 vegetative fuels under specified environmental conditions in
3 accordance with a written prescription plan:

4 (A) designed to confine the fire to a
5 predetermined area and to accomplish planned land management
6 objectives; and

7 (B) that conforms to the standards established
8 under this section;

9 (2) require that ~~[+~~

10 ~~[(A)]~~ at least one certified and insured
11 prescribed burn manager is present on site during the conduct of the
12 prescribed burn ~~[, or~~

13 ~~[(B) the burn be conducted by the members of a~~
14 ~~prescribed burning organization];~~

15 (3) establish appropriate guidelines for size of
16 burning crews sufficient to:

17 (A) conduct the burn in accordance with the
18 prescription plan; and

19 (B) provide adequate protection for the safety of
20 persons and of adjacent property;

21 (4) include standards for notification to adjacent
22 land owners, the Texas Commission on Environmental Quality, and
23 local fire authorities; and

24 (5) include minimum insurance requirements for
25 certified and insured prescribed burn managers ~~[and prescribed~~
26 ~~burning organizations]~~.

27 SECTION 5. Section [153.081](#)(a), Natural Resources Code, is

1 amended to read as follows:

2 (a) Subject to Section 153.082, an owner, lessee, or
3 occupant of agricultural or conservation land is not liable for
4 property damage or for injury or death to persons caused by or
5 resulting from prescribed burning conducted on the land owned by,
6 leased by, or occupied by the person if the prescribed burning is
7 conducted ~~+~~

8 ~~[(1)]~~ under the supervision of a certified and insured
9 prescribed burn manager ~~+~~~~or~~

10 ~~[(2) by the members of a prescribed burning~~
11 ~~organization].~~

12 SECTION 6. Section 153.082, Natural Resources Code, is
13 amended to read as follows:

14 Sec. 153.082. INSURANCE. The limitation on liability under
15 Section 153.081 does not apply to an owner, lessee, or occupant of
16 agricultural or conservation land unless:

17 (1) the ~~[burn is conducted under the supervision of a]~~
18 certified and insured prescribed burn manager conducting a burn on
19 the land ~~[who]~~ has liability insurance coverage:

20 (A) of at least \$1 million for each single
21 occurrence of bodily injury or death, or injury to or destruction of
22 property; and

23 (B) with a policy period minimum aggregate limit
24 of at least \$2 million; or

25 (2) the owner, lessee, or occupant is a governmental
26 unit, as that term is defined by Section 2259.001, Government Code,
27 that has a self-insurance program that provides the amount of

1 coverage required by Subdivision (1) [~~or~~

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

6 SECTION 7. The following provisions of the Natural
7 Resources Code are repealed:

8 (1) Section 153.001(3); and

9 (2) Section 153.049.

10 SECTION 8. This Act takes effect September 1, 2019.