

By: Murr

H.B. No. 4395

A BILL TO BE ENTITLED

AN ACT

relating to charitable organizations, including charitable organizations that may conduct prescribed burning.

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

SECTION 2. 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 3. Section 153.001, Natural Resources Code, is

1 amended by adding Subdivision (3) to read as follows:

2 ~~(3) "Prescribed burning organization" means an~~
3 ~~organization described by Section 153.049.~~

4 SECTION 4. Section 153.004, Natural Resources Code, is
5 amended to read as follows:

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

12 SECTION 5. Section 153.046, Natural Resources Code, is
13 amended to read as follows:

14 Sec. 153.046. DUTIES. The board shall:

15 (1) establish standards for prescribed burning;

16 (2) develop a comprehensive training curriculum for
17 certified and insured prescribed burn managers;

18 (3) establish standards for certification,
19 recertification, and training for certified and insured prescribed
20 burn managers;

21 (4) establish minimum education and professional
22 requirements for instructors for the approved curriculum; ~~and~~

23 (5) establish insurance requirements for certified
24 and insured prescribed burn managers in amounts not less than those
25 required by Section 153.082, ~~and~~

26 ~~(6) establish minimum insurance requirements for~~
27 ~~prescribed burning organizations.~~

SECTION 6. Section 153.047, Natural Resources Code, is amended to read as follows:

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

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

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

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

(2) require that:

(A) at least one certified and insured prescribed burn manager is present on site during the conduct of the prescribed burn; ~~or~~

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

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

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

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

(4) include standards for notification to adjacent land owners, the Texas Commission on Environmental Quality, and

1 local fire authorities; and

2 (5) include minimum insurance requirements for
3 certified and insured prescribed burn managers ~~and prescribed~~
4 ~~burning organizations.~~

5 SECTION 7. Subchapter B, Chapter 153, Natural Resources
6 Code, is amended by adding Section 153.049 to read as follows:

7 ~~Sec. 153.049. PRESCRIBED BURNING ORGANIZATIONS. The~~
8 ~~members of a charitable organization, as defined by Section 84.003,~~
9 ~~Civil Practice and Remedies Code, that is organized and operated~~
10 ~~for prescribed burning purposes may conduct a burn under this~~
11 ~~chapter if:~~

12 ~~(1) the member in charge of the burn has completed the~~
13 ~~approved training curriculum described by Section 153.048(a); and~~

14 ~~(2) the organization has insurance coverage in an~~
15 ~~amount not less than the amount established by the board under~~
16 ~~Section 153.046.~~

17 SECTION 8. Section 153.081(a), Natural Resources Code, is
18 amended to read as follows:

19 (a) Subject to Section 153.082, an owner, lessee, or
20 occupant of agricultural or conservation land is not liable for
21 property damage or for injury or death to persons caused by or
22 resulting from prescribed burning conducted on the land owned by,
23 leased by, or occupied by the person if the prescribed burning is
24 conducted:

25 (1) under the supervision of a certified and insured
26 prescribed burn manager, ~~or~~

27 ~~(2) by the members of a prescribed burning~~

~~organization.~~

SECTION 9. Section 153.082, Natural Resources Code, is amended to read as follows:

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

(1) ~~the burn is conducted under the supervision of a~~ certified and insured prescribed burn manager who has liability insurance coverage:

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

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

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

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

SECTION 11. This Act takes effect September 1, 2019.