

By: Lozano, Murr, Guillen

H.B. No. 2119

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 1. Section 84.003(1), Civil Practice and Remedies Code, is amended to read as follows:

(1) "Charitable organization" means:

(A) any organization exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization in Section 501(c)(3) or 501(c)(4) of the code, if it is a corporation, foundation, community chest, church, or fund organized and operated exclusively for charitable, religious, prevention of cruelty to children or animals, youth sports and youth recreational, neighborhood crime prevention or patrol, fire protection or prevention, emergency medical or hazardous material response services, or educational purposes, including private primary or secondary schools if accredited by a member association of the Texas Private School Accreditation Commission but excluding fraternities, sororities, and secret societies, or is organized and operated exclusively for the promotion of social welfare by being primarily engaged in promoting the common good and general welfare of the people in a community;

(B) any bona fide charitable, religious,

1 prevention of cruelty to children or animals, youth sports and
2 youth recreational, neighborhood crime prevention or patrol, or
3 educational organization, excluding fraternities, sororities, and
4 secret societies, or other organization organized and operated
5 exclusively for the promotion of social welfare by being primarily
6 engaged in promoting the common good and general welfare of the
7 people in a community, and that:

8 (i) is organized and operated exclusively
9 for one or more of the above purposes;

10 (ii) does not engage in activities which in
11 themselves are not in furtherance of the purpose or purposes;

12 (iii) does not directly or indirectly
13 participate or intervene in any political campaign on behalf of or
14 in opposition to any candidate for public office;

15 (iv) dedicates its assets to achieving the
16 stated purpose or purposes of the organization;

17 (v) does not allow any part of its net
18 assets on dissolution of the organization to inure to the benefit of
19 any group, shareholder, or individual; and

20 (vi) normally receives more than one-third
21 of its support in any year from private or public gifts, grants,
22 contributions, or membership fees;

23 (C) a homeowners association as defined by
24 Section 528(c) of the Internal Revenue Code of 1986 or which is
25 exempt from federal income tax under Section 501(a) of the Internal
26 Revenue Code of 1986 by being listed as an exempt organization in
27 Section 501(c)(4) of the code;

(D) a volunteer center, as that term is defined by Section 411.126, Government Code; ~~[or]~~

(E) a local chamber of commerce that:

(i) is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization in Section 501(c)(6) of the code;

(ii) does not directly or indirectly participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; and

(iii) does not directly or indirectly contribute to a political action committee that makes expenditures to any candidates for public office; or

(F) any organization exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization in Section 501(c)(3) or 501(c)(5) of the code, if it is an organization or corporation organized and operated exclusively for wildfire mitigation, range management, or prescribed burning purposes.

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

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

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

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

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

Sec. 153.046. DUTIES. The board shall:

(1) establish standards for prescribed burning;

(2) develop a comprehensive training curriculum for

certified and insured prescribed burn managers;

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

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

(5) establish insurance requirements for certified and insured prescribed burn managers in amounts not less than those required by Section 153.082; and

(6) establish minimum insurance requirements for 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

1 burn; or

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

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

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

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

10 (4) include standards for notification to adjacent
11 land owners, the Texas Commission on Environmental Quality, and
12 local fire authorities; and

13 (5) include minimum insurance requirements for
14 certified and insured prescribed burn managers and prescribed
15 burning organizations.

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

18 Sec. 153.049. PRESCRIBED BURNING ORGANIZATIONS. The
19 members of a charitable organization, as defined by Section 84.003,
20 Civil Practice and Remedies Code, that is organized and operated
21 for prescribed burning purposes may conduct a burn under this
22 chapter if:

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

25 (2) the organization has insurance coverage in an
26 amount not less than the amount established by the board under
27 Section 153.046.

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

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

(1) under the supervision of a certified and insured prescribed burn manager; or

(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 ~~[conducting a burn on the land]~~ 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,

1 that has a self-insurance program that provides the amount of
2 coverage required by Subdivision (1); or

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

7 SECTION 10. Not later than November 1, 2015, the Prescribed
8 Burning Board shall adopt rules to establish minimum insurance
9 requirements for prescribed burning organizations as provided by
10 Section 153.046(6), Natural Resources Code, as added by this Act.

11 SECTION 11. This Act takes effect September 1, 2015.